

April 18, 2006



TRANSCRIPT
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PRESENT

MONTGOMERY COUNTY COUNCIL

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Thomas Perez	Steven A. Silverman
	Michael Subin

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[MUSIC]

Multiple Speakers,
[INAUDIBLE]

Council President Leventhal,
Okay. Good morning everyone. Is Susan Troxel here? We would appreciate your invocation now.

Susan Troxel,
Oh thou kind Lord, thou hast created all humanity from the same stock. Thou hast decreed that all shall belong to the same household. In thy holy presence they are all thy servants and mankind are sheltered beneath thy tabernacle. All have gathered together at the table of bounty. All are illumined through the light of thy providence. Oh God, thou are kind to all, provided for all, dost shelter all, confer life upon all. Thou hast endowed each and all with talents and faculties and all are submerged in the ocean of thy mercy. Oh thou kind Lord, unite all, let the religions agree and make the nations one so that they may see each other as one family and the whole earth as one home. May they all live together in perfect harmony. Oh God, raise aloft the banner of the oneness of mankind. Oh God, establish the most great peace. Cement thou, oh God, the hearts together. Oh thou kind father God, gladden our hearts through the fragrance of thy love. Brighten our eyes through the light of thy guidance. Delight our ears with the melody of thy word and shelter us all in the stronghold of thy providence. Thou art the mighty and powerful, thou art the forgiving, and thou art the one who overlooketh the short comings of all mankind.

Council President Leventhal,
Thank you very much. That was Susan Troxel of the Spiritual Assembly of Baha'is of Montgomery County. I now am going to make a presentation. Am I making it to Mark McCullough? Great. Mark McCullough is here from the Washington Regional Transplant Consortium. I am the Chairman of the Health and Human Services Committee. I have the pleasure of recognizing a variety of events intended to improve the public health. This month is Organ and Tissue Awareness Month. We have this proclamation recognizing that the Regional Transplant Consortium is celebrating 20 years educating the County in saying yes to donation and giving the gift of life and saving lives through organ and tissue recovery. It's important that Montgomery County citizens can decide to donate organs and at tissues in the event something unfortunate happens they can save other people's lives by designating donation on their driver's license, carrying a donor card in their wallet and discussing their choice with their families. This proclamation resolves that the County proclaims April of 2006 Organ and Tissue Donation Awareness Month. Okay. And Mr. McCullough, would you like to say a few words?

Mark McCullough,

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1 I would like to thank the Council for the proclamation. It certainly does help in our
2 outreach efforts to the community organizations, churches, and actually here in
3 Montgomery County, thanks to our amazing volunteer group, it's hard for students to get
4 out of Montgomery County high schools without getting some sort of donation
5 information and education. So that way they can make an informed decision and that
6 our next generation of drivers and leaders know how important it is to say "Yes" to the
7 Gift of Life and save someone else's life. Any more information can be found on
8 beadonor.org. We encourage you to get the facts and make a decision.

9
10 Council President Leventhal,
11 Thank you for being here, Mark, and thanks for the good work you're doing.

12
13 [APPLAUSE]

14
15 Council President Leventhal,
16 Next we have a proclamation to our star hockey players by Councilmember Denis.

17
18 Councilmember Denis,
19 Thank you very much Mr. President. I would like to ask the guys on the championship
20 hockey team to gather behind me. Winston Churchill. As you are gathering behind.
21 Want to say that Winston Churchill, the person, once said, "Never, ever give up." These
22 guys never gave up. Won a championship in the state of Maryland for the first time. We
23 are very proud of them. I am going to read the proclamation and then I'm going to
24 handout certificates to the champs. Then I will ask coaches and anyone on the team
25 wants to say a few words to do so. "WHEREAS, championship seasons are the result of
26 hard work, focus and determination -- qualities the Winston Churchill Community Ice
27 Hockey Club demonstrated in abundance in their run to the 2006 State Championship;
28 and WHEREAS, the Churchill's Community Ice Hockey Club defeated Severna Park
29 High School 6-5 at the Gardens Ice House in Laurel on Monday, February 27, 2006, for
30 the Maryland Scholastic Hockey League State Championship title, winning their first
31 State Championship after an undefeated season with a record of 14-0; and..." All right.

32
33 [APPLAUSE]

34
35 Councilmember Denis,
36 14-0! Don't go much better than that! "WHEREAS, this is the first state title for the
37 Churchill's Community Ice Hockey Club after a previous championship game
38 appearance; and WHEREAS, all the players, their families, and coaches Ray McKenzie,
39 Steven Bobys, and Alan Caro, deserve hearty kudos" -- not just kudos -- "hearty kudos
40 for setting their sights high and realizing their dreams; NOW, THEREFORE BE IT
41 RESOLVED that the County Council of Montgomery County, Maryland hereby
42 proclaims congratulations and salutes the Winston Churchill's Community Ice Hockey
43 Club. AND, BE IT FURTHER RESOLVED that the Montgomery County Council joins
44 with their coaches, parents, and the entire Winston Churchill community in recognizing
45 this wonderful achievement of bringing home the championship banner in Montgomery

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County." Presented this historic 18th date of April in the year 2006 signed by our President, George Leventhal. Give it up for the guys.

[CHEERS AND APPLAUSE]

Councilmember Denis,
Okay, now I'm going to handout these certificates. To the captain of the team, Pasha Zand. Pasha. Okay, Pasha. You know where to stand, right? All right. You're the captain. Chad Robins: Okay, Chad, congratulations to you. All right? All right. Adon DeGuzman. Okay Adon. Congratulations, you did great. Greg Boxer: Hey, Greg. Congratulations to you. Okay. Griffin Farha: There you go. Congratulations to you. Marc Fisher.

Marc Fisher,
Here.

Councilmember Denis,
Okay, Marc. Congratulations. Zachary Greenwald. Zach, there you go. Sammy Gurman. Okay, Sammy, there you go. Stephen London. Okay, Stephen, okay. Chase Magaziner. Chase, congratulations. Okay, Billy Minnock.

William Minnock,
Yeah.

Councilmember Denis,
Okay, Bill. There you go. Jason Mohr. Okay, Jason, there you go. Brian Nemeroff. Brian, congratulations to you. Kia Rahimian. Okay, Kia, that's the way to go. Alex Timbers: Okay, Alex, all right. Alex wants to raise the speed limit in Montgomery County.

[LAUGHTER]

Councilmember Denis,
Ray McKenzie, the head coach. Coach McKenzie. All right.

[APPLAUSE]

Councilmember Denis,
Alan Caro, the assistant coach.

Unidentified Speaker,
All right.

[APPLAUSE]



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1 Councilmember Denis,
2 Al is from the Bronx, right?

3
4 Alan Caro,
5 [INAUDIBLE]

6
7 Councilmember Denis,
8 Oh, all right, almost. Steven Bobys, another assistant coach.

9
10 [APPLAUSE]

11
12 Councilmember Denis,
13 Okay, and Bob Roseman, the team coordinator. Is Bob here?

14
15 [APPLAUSE]

16
17 Councilmember Denis,
18 Congratulations. And as any folks are composing their thoughts, let's give another great
19 round of applause to all these these guys; the team, the coaches, the faculty, whatever.

20
21 [APPLAUSE]

22
23 Councilmember Denis,
24 Coach, anyone? You're up.

25
26 Coach Ray McKenzie,
27 I will make it quick. I would like to say thank you to Councilman Denis as well as the
28 entire Council and Mr. Robbins for putting this together. Let me say that all of you would
29 be proud of these guys. Not only are they excellent athletes, but I believe over the last
30 several years they've either come in first or second in GPA for the Montgomery
31 Scholastic Hockey League. They are a smart group. They are intelligent, they are hard
32 working. They're all great kids. You'd be very proud of them and they're exceptional
33 athletes as well. This is our last time probably together as a group. Thank you so much,
34 we couldn't have gone out in more style. Thank you again.

35
36 Councilmember Denis,
37 You can have a reunion.

38
39 [APPLAUSE]

40
41 Bob Roseman,
42 I'm not going to reiterate all the things that Ray just said except to add that the team
43 GPA was weighted 3.51 this year, which I think is rather extraordinary for a team of
44 athletes that went undefeated and is 31 and 1 for the last two years, so it's a rather
45 extraordinary effort. I did want to add to Ray's thank you thanking our coaching staff, he

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1 is an incredible head coach. Alan Caro, he's been extraordinary, and, of course, Steven
2 Bobys. I also want to thank our parents who have been incredibly supportive in
3 everything we have done over the last 12 years we've had the program. The last several
4 years have been extraordinary. I finally want to thank our principal, Joan Benz, and Pat
5 Fisher, both of whom have regrets that they couldn't be here, but have added their
6 kudos and honors to the students for the great job they have done. Thank you very
7 much, Councilman.

8
9 [APPLAUSE]

10
11 Councilmember Denis,
12 Okay. Alan? Anybody else? Steven? Say a few words. Come on? Are you sure? Okay,
13 Pasha? Captain.

14
15 Pasha Zahn,
16 Well, I would like to thank the Council for the -- awarding us the proclamation. It's for a
17 great team, an undefeated season and the 2006 MSHL State Championship. Thank you
18 very much.

19
20 Councilmember Denis,
21 You got it. Anyone else want to say anything. Anyone else want to step forward? Chad?
22 All right. Once again, thank you also to the parents for the encouragement and all the
23 enthusiasm and support. Thank you to the coaches and to the principal and the faculty
24 and especially to the guys for putting together a great season and being great students
25 at the same time. Again, one more round of applause.

26
27 [APPLAUSE]

28
29 Councilmember Denis,
30 We have -- let's get a tight shot here. We don't want to block anyone. Bend down here.
31 Tighter shot? Don't be shy. We should lean over or something. Thank you. You're
32 welcome to stay, but it's not required. I also want to thank Colleen Lauer of my staff for
33 helping to put this together. Thank you Colleen.

34
35 Council President Leventhal,
36 All right. Congratulations to our athletes. Councilmember Andrews wanted to make a
37 comment to the young people before they leave.

38
39 Councilmember Andrews,
40 [INAUDIBLE]

41
42 Councilmember Perez,
43 I will note for the record that the son of Mr. Robbins was the -- if I have it correctly -- he
44 was the First Team, All County from "The Gazette" and All Met, honorable mention by



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1 the "Washington Post," obviously taking after his mother. I just wanted to point that out
2 for the record.

3
4 Steve Robins,
5 His mother's already out of the room.

6
7 Councilmember Perez,
8 Would you tell his mother that I -- could you tell his mother that I said that?

9
10 Steve Robins,
11 I do want to thank you for doing this 'cause it meant a lot to these boys and a lot to the
12 team and, of course, it meant a lot to the parents.

13
14 Council President Leventhal,
15 We are very happy to do it Steve, it's great for us, too. Our next presentation is in
16 recognition of a successful season by the Maryland Nighthawks.

17
18 [APPLAUSE]

19
20 Councilmember Silverman,
21 [INAUDIBLE] sports day. That's right, absolutely. Hey, Tom, great to see you. Well, we
22 have just congratulated an outstanding team of young people. And we've moved on to a
23 sport that's very close to my heart and my son's heart, which is basketball. About a year
24 ago or so Tom Doyle contacted me and said he had become the owner of the American
25 Basketball Association Maryland Nighthawks. My first question right out of the gate was,
26 gosh, I don't know the ABA was still around. For those of us who remember the days of
27 Julius Irving and the wonderful ball, it was great to hear the ABA was still around. And,
28 more importantly, that Tom, who was an alumnus of Montgomery College, a practicing
29 lawyer here, who owned the team wanted to bring the team from Prince George's to
30 Montgomery County. And we were able to hook them up with Montgomery College and
31 create another partnership with the College as they have done with baseball as well.
32 They had an outstanding and extremely successful season, making it to the playoffs.
33 What was the record, Tom?

34
35 Tom Doyle,
36 26 and 10.

37
38 Councilmember Silverman,
39 26 and 10. Had a chance to get out there. Great family entertainment in Montgomery
40 County, a wonderful contribution to our community. So I thought we would present you
41 with a proclamation recognizing your contribution to our community spirit. Not just
42 because you're here in Rockville, but because of the great opportunities that you gave
43 to kids throughout Montgomery County. You gave away -- donated \$50,000 of free
44 tickets to youth groups and other groups throughout the County. A tremendous
45 contribution. First season. I know you will continue to have great seasons to come. I

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1 won't read the proclamation. I will indicate that the County Council salutes the American
2 Basketball Association's Maryland Nighthawks team. We look forward to continuing to
3 support your efforts to make Montgomery County your home and to contribute to our
4 community. Congratulations, Tom.

5
6 Tom Doyle,
7 I appreciate it. Thank you.

8
9 Councilmember Silverman,
10 We'll get a quick picture here with the tall guy.

11
12 Unidentified Speaker,
13 Great, you all look this way.

14
15 Councilmember Silverman,
16 All right, we're supposed to look this way. Tom, I know Jeanette's here, why don't you
17 introduce the folks you brought along.

18
19 Tom Doyle,
20 I brought few people. This is my partner and our Executive Vice President, Jeanette
21 McCool; our Assistant General Manager, David Lasday. Out there taking pictures is our
22 marketing director, and also the host of our Internet radio show, Adam Dantus; and, of
23 course, standing next to Steve is probably the greatest player from the Big East, even
24 though he's not from Georgetown, Lawrence Moten. We're fortunate enough to have
25 Lawrence, now a two-time ABA All-Star, NBA with the Wizards and the Grizzlies, and,
26 of course, Syracuse, the Big East All-Time Leading Scorer. I want to say thanks to
27 Steve. Largely getting us to play over here was almost not going happen until I met
28 Steve and things happened. We will be back next year.

29
30 Councilmember Silverman,
31 So when is the first game?

32
33 Tom Doyle,
34 We'll start again in November. But we have camps throughout the summer and many
35 things for the kids that the Wizards camp is -- I think Mark Fisher said in his column, he
36 wrote everything that the Wizards aren't is what we are -- Any of you have kids next
37 year want to come out, they get to touch these guys and sign autographs and the guys
38 stay on the floor. It's something we're very proud of that we brought not only in terms of
39 donations for kids and raising money for charities, but harkening back to what
40 professional athletes and professional sports was about. That's what our mantra is
41 moving forward.

42
43 Councilmember Silverman,
44 Great. Thanks. Be well.

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1 [APPLAUSE]

2
3 Council President Leventhal,
4 Terrific. Thank you all. Thanks to Maryland Nighthawks. We are going to move into
5 General Business. Ms. Lauer, do we have any Agenda or Calendar changes?

6
7 Linda Lauer,
8 There are no changes to the Agenda today. We do have a Calendar change, just to
9 note the Education Committee meeting scheduled for Thursday at 3:00 is cancelled.
10 The Joint meeting is still on at 2:00, but that 3:00 is cancelled.

11
12 Council President Leventhal,
13 I understand we have petitions?

14
15 Linda Lauer,
16 Yes, we do. We have one from supporting the tutoring and mentoring program at the
17 Thomas Learning Academy, one for full funding for MCPS CIP, one for members and
18 supporters of [GROWS] supporting second year funding for the Comprehensive Statistic
19 Plan For Seniors, and then one from Bells Mill Elementary School PTA supporting
20 modernization of Bells Mill Elementary School.

21
22 Council President Leventhal,
23 Thank you very much. How about minutes? Minutes for approval?

24
25 Council Clerk,
26 You have the minutes of March 21st, 27th, 28th. And closed session minutes of
27 December 6, 2005, February 14, and February 28.

28
29 Council President Leventhal,
30 We need a motion to approve all those minutes. Ms. Praisner has moved and Ms.
31 Floreen has seconded the motion to approve the minutes of March 21, 27, and 28, and
32 the closed session minutes of December 6th, and February 14 and 28. Those in favor
33 will signify by raising their hands. And it is unanimous among those present. Turning
34 now to the Consent Calendar, we need a motion to approve the Consent Calendar. Ms.
35 Praisner has moved and Mr. Andrews has seconded the approval of the Consent
36 Calendar. Mr. Andrews has comments on the Consent Calendar.

37
38 Councilmember Andrews,
39 I wanted to comment on the Item F, which is the receipt and release of the Office of
40 Legislative Oversight's report, A Base Budget Review of the Montgomery County Park
41 Police. This is very helpful report done by Aron Trombka and Benjamin Stutz of our
42 Office of Legislative Oversight. They have continued the streak that OLO has of putting
43 out useful reports for the public and for us to digest. The Public Safety and PHED
44 Committees are going to have a joint session this Friday at -- actually 1:30, right -- to
45 discuss the report. This is a base budget review as the title says. Normally we don't get

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1 to do base budget reviews during the budget because we're focusing on the changes
2 from the previous budget that are proposed by the County Executive. But in this report,
3 the OLO has looked at the underlying structure and formatting and deployment policies,
4 and practices of the agency and has made some very useful recommendations about
5 the current practices. I look forward to working with the PHED Committee and my
6 colleagues on Public Safety to review the recommendations and to make sure that we
7 continue to adopt policies that make all our agencies as effective and as efficient as
8 possible. I encourage people to read the report. I think it's outstanding. People --
9 consultants in the private sector are paid big bucks to do this kind of analysis. We have
10 the benefit of having people in OLO to do this every day for us and we are much better
11 for it.

12
13 Council President Leventhal,
14 Ms. Praisner.

15
16 Councilmember Praisner,

17 Yes. I wanted to comment on a couple items. One of those is also the OLO report, The
18 Base Budget Review on Park Police. I wanted to add my thanks and reinforcement of
19 the points that Mr. Andrews made. The Council obviously -- I think Mr. Knapp as well
20 would echo those comments -- If we are ever going to get below the puts and takes that
21 are the focus of the budget document, we have to have the kind of analysis that's part of
22 the Office of Legislative Oversight report. I think it forms very useful information for the
23 Council in review. But it also provides a template for the kinds of things that we need to
24 look at when we talk about base budgets. So, I want to add my kudos to those involved
25 and thank them for helping us with this comprehensive approach, which probably will
26 need to go on not only during the budget cycle but beyond. I wanted to comment also
27 on "E." I know Mr. Firestine here. The County is being asked -- the Council is being
28 asked to authorize a resolution which will allow us to have a little more flexibility in the
29 way we issue debt. It will provide for variable rate demand notes for that program. I think
30 the packet for that item, 2-E, is very comprehensive. There also is I think a
31 complimentary additional information, which came to the Council from Mr. Firestine on
32 the concept. Yesterday in the Management and Fiscal Policy Committee meeting, when
33 we had an opportunity to discuss the Operating Budget and Spending Affordability, and
34 I will have additional comments when we do the spending affordability piece, we had a
35 chance with finance here to have a conversation with the MFP Committee about the
36 variable rate program. And I'm comfortable and I think my colleagues are. The intent of
37 having that conversation was to allow us to introduce this item this Tuesday and act on
38 it next Tuesday without scheduling a separate discussion. Should any Councilmembers
39 have any additional questions, I'm sure Mr. Firestine either now or during Spending
40 Affordability would be available to answer any questions. But let me say that as usual,
41 the Department, I think, has the best fiscal policy in mind and is providing the County
42 with some flexibility and also in a prudent and fiscally responsible way. The other item I
43 wanted to comment on is "I," which is the School System and County's initiative to deal
44 with relocatable classrooms including, obviously, those -- starting with replacement of
45 those that are the oldest and in poorest condition. We have already had testimony about

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1 the issue of Bells Mills and the conditions of portables there. The one issue that I hope
2 that the Education Committee will have a chance to talk about, though, is that we have
3 had a policy about relocatable classrooms and the use of them as a measure or
4 concept for a variety of things. One, day care programs; two, in order to roll out things
5 like reduced class size, and all day kindergarten. We have also had a policy of not
6 adding permanent construction to buildings when we we're talking about small amounts
7 of space and flexibility needed, mainly either a fewer than four or in some cases two
8 classrooms or when an addition is already planned. The two concerns I have is I think
9 we need to be clear with the community that we're not going to permanently -- not going
10 to be able to permanently eliminate portables because those situations may occur in the
11 future and certainly with day care and other issues. And I don't want to leave an
12 unrealistic expectation that this is an elimination of portables forever, because our
13 school construction projects, from a standpoint of adding one classroom to a school as
14 a stand-alone capital project, if that's what the Superintendent and Board is suggesting,
15 then we have to have a formal conversation about that. And I think we also need to talk
16 about building to the peak, given the conditions that have existed. And also I would
17 hope that we would talk about in this overall policy not only the use of portables, but the
18 maintenance policy for these facilities and the way in which we will deal with perhaps
19 leasing from the state new portables rather than purchasing our own. I hope and I
20 assume the Education Committee will look at all of those issues when it looks at this
21 new initiative. Thank you, Mr. President.

22
23 Council President Leventhal,
24 Okay. There are no other comments on the Consent Calendar, those in favor of the
25 Consent Calendar will signify by raising their hands. It's unanimous among those
26 present. It is time for the overview of the FY '07 Operating Budget. Mr. Farber.

27
28 Councilmember Praisner,
29 No, Legislative Session.

30
31 Council President Leventhal,
32 Oh, my mistake, you know...

33
34 Councilmember Praisner,
35 It looks like a continuation of the Consent Calendar.

36
37 Council President Leventhal,
38 It did, there was this long list. Okay, my mistake, we're in Legislative Session. We need
39 to approval the Legislative Journal and we need a motion to that effect. Mr. Knapp has
40 moved and Ms. Praisner has seconded the approval of the Legislative Journal for March
41 21st and March 28th. Those in favor will signify by raising their hands. It is unanimous
42 among those present. We have several bills for introduction -- a lot -- and public
43 hearings are already scheduled for all of them. I don't know -- I don't think we need
44 itemize them. They are listed on the agenda. If anyone has comments on any of the bills
45 listed, we will take those now. Ms. Praisner.

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Councilmember Praisner,

Yes. On Bill 12-06 which is the Transmission Facility Coordination, the suggestion is made that the Department of Environmental Protection be replaced by the Department of Permitting Services on the Committee. My only question, and I hope we can have conversation about it in the public hearing, is I can see some situations because of environmental issues with the Department of Environmental Protection might want to sit in the Committee to comment on the placement of a tower, et cetera. So, I -- maybe there's language that needs to be added, "and other departments as necessary" or "when relevant" or something that would allow that. Because I wouldn't want DEP sitting there for every single meeting. But it could seem appropriate at the time. The other comment I had is on 13-06, which I guess conforms our Alcohol and Drug Abuse Advisory Council to the state requirements. But -- what we have in the structure will be eight public members and 13 ex officio members, which to me really raises significant questions about whether the folks at the state when they were creating the requirements -- if this is what it means. Really had some sense of the reality of the structure of an organization, including the fact that the Council President has to be a member. So, going back to our Board's Committees, et cetera, and maybe as a legislative initiative for next year, Mr. Leventhal, we need to look at this issue, which in my view may make sense in certain situations, but really is not n an effective use of folks' time.

Council President Leventhal,

Thank you to the Vice President and I strongly agree. I can't imagine that the Administrative Judge of the Circuit Court, the Administrative Judge of the District Court, the State's Attorney, the Public Defender, the County Executive are ever going to attend any of these meetings. Nor is it likely given the duties of their staff that they will send designees. I appreciate your bringing this up. I had not paid adequate attention to it before, I was asked to introduce it at the County Executive's request. I am paying attention to it now. We may want to consider pulling it, because I'm not prepared to introduce it, given that my effort has been to remove extraneous elected officials from these boards and commissions, not add new ones. So I'd like to just pull this at this time.

Mike Faden,

I want to make two points of information. We will double check see whether all this including the balance of ex-officio and public members is required by the state law. Secondly, as you mentioned all these officials named can send a designee.

Council President Leventhal,

That is completely impractical! We don't have designees available to attend monthly meetings of all of these boards and commissions. I've raised this again and again. Some legislator may think it's a great idea. Maybe it's a great idea in Wicomico County. It's not going to work here and I'm going to pull this from the list for introduction right

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1 now. I understand there's issues of compliance with state law. We will have time to look
2 into those. I am pulling Agenda Item Number 9.

3
4 Councilmember Praisner,

5 I have a question or a comment on Bill 14-06. because there seems to be some
6 confusion. I receive a phone call from a member of the Committee -- sorry, it's another
7 one. Sorry. Wrong bill. I apologize. I'm done.

8
9 Council President Leventhal,

10 Very good. So, Agenda Items Number 3 through 8 and 10 through 11.5 are introduced
11 without objection. We will have further conversations with the County Attorney and with
12 our Intergovernmental Affairs Office regarding Agenda Item Number 9, which has been
13 pulled. We now turn to the overview of FY '07 Operating Budget. Mr. Farber.

14
15 Stephen Farber,

16 I thought I'd make some brief introductory comments as a starting point of your
17 discussion of the recommended '07 Operating Budget. Three years ago in the first year
18 of this Council, as you recall, you were confronted with a most difficult fiscal situation in
19 more than a decade since the recession years of the early 1990s. That was a very
20 difficult budget. Mr. Subin was Council President then, and before that budget both he
21 and I actually had a full head of hair. We didn't after that budget. This budget fortunately
22 is the polar opposite of that. We are blessed to have one of the strongest local
23 economies and housing markets in the country...

24
25 Councilmember Floreen,
26 [INAUDIBLE]

27
28 Stephen Farber,

29 I see. Well, Mr. Subin, certainly wrote the book on that subject. But we're fortunate this
30 year to have the polar opposite kind of budget. It has good news in many, many
31 respects. It's the most ambitious of the Executive's tenure, bottomed, as I said, on the
32 outstanding economy that we are privileged to enjoy. There are many details about the
33 budget that I could mention, but they are in my packet. I thought I would raise briefly
34 several issues that you may want to pursue. The first is this: How should Council this
35 year reach the charter limit? The charter limit, of course, approved by the voters in 1990
36 says the increase in property tax revenue from existing real property may increase at no
37 more than the rate of inflation. This is on existing real property. That is unless seven
38 Councilmembers vote to override the limit. Last year the Executive did not recommend
39 going to the charter limit, the Council did. You reduced the Executive's budget by \$54
40 million in order to do so. This year the Executive has recommended going to the charter
41 limit. He does so by suggesting a 9.5 cent reduction in the property tax rate, but there
42 are two other proposals on the table, one from Ms. Praisner and one from Mr. Silverman
43 to get to the charter limit in a different way. Ms. Praisner suggests reducing the property
44 tax rate by 5 cents rather than 9.5 and having a \$221 per owner-occupied principle
45 residence credit. And Mr. Silverman proposes no reduction in the tax rate and, instead,

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1 a \$468 credit. These proposals all achieve the charter limit, but they do so in different
2 ways and with different impacts. For example, the 9.5 cent rate cut would apply not only
3 to owner occupied principle residences but also other forms of property, for example,
4 rental property, other commercial property, and personal property. Option 2, Ms.
5 Prisoner's proposal would apply to them, and Silverman's proposal would not apply to
6 them. Then there's the issue of progressivity. There's an interesting table on page 52 --
7 Circle 52-5 of this packet that shows you clearly what the impact is on households -- or
8 rather on properties with different taxable assessments. It's an important table, and what
9 it shows is that there are different degrees of progressivity in terms of the impact on
10 households of these three different proposals. Finally, there's the issue of revenue loss.
11 The Executive's 9.5 cent rate cut would forgo or would reduce property tax revenue by
12 \$128 million. Ms. Praisner's proposal, because it applies only part of the rate cut and
13 because of the credit focuses on the principal residences, would forgo less revenue,
14 and Mr. Silverman's would forgo even less than that. We have three solid proposals.
15 They all meet the charter limit, but they have different impacts. That's something that we
16 will work on over the next few weeks. The second issue in my packet has to do with
17 other claims on resources. Every year there are other claims. For example, we know
18 about the Geographic Cost of Education Index. The Executive correctly assumed in his
19 budget that the state would step up to the plate and fund that, but the state, once again,
20 did not. So that's a hole we have to fill. Then we have initiative suggested by individual
21 Councilmembers. There are many of those. They are in Health and Human Services, a
22 number of good proposals there, in Transportation, in Public Safety, several proposals
23 with regard to libraries, and there are others. These are of interest to individual
24 Councilmembers, they are competing claims on resources as well. Then there is the
25 issue of retiree health benefits. Everyone is familiar with the GASB, or Governmental
26 Accounting Standards Boards requirements that will take effect next year for fiscal '08.
27 We have to prepare for that. Those are disclosure requirements, but funding will be
28 important, especially for AAA-rated counties. Some jurisdictions have stepped up to the
29 plate, like Baltimore County, they've set aside \$50 million in their '07 budget. They
30 previously set aside another \$50 million. They are ready to actually fund the full retiree
31 health benefit GASB requirement starting on July 1 of next year. This budget,
32 recommended by the Executive, does not take similar action but it is an issue that
33 represents a competing claim on resources, certainly for '08. I mentioned the issue of
34 tax room. In previous years in early '90s when the Council had to raise taxes, it reduced
35 the taxes in the middle and late '90s in order to give itself room for the next downturn.
36 That was fortunate because in 2003 and 4 we needed that room. This recommended
37 budget does not provide any additional room in that respect. I also mentioned the issue
38 of gasoline and utilities. No more needs to be said on that subject. The Utilities budget
39 for the four agencies is \$100 million in '07, up 29 percent. But even so given what's
40 happening out there, that may not be enough. Gasoline is a story we all know about. It's
41 affecting individuals and governments alike. And finally, infrastructure maintenance, that
42 was one of Mr. Perez's initiatives last year. Ms. Praisner chaired the task force. That's
43 always an area that can use more help. With regard to the six-year fiscal plan, I have a
44 long section in my packet about that. I think the only point that I would make here is that
45 the fiscal plan for the six-years works very well, of course, in the first year. That's '07. It's

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1 a year in which the Executive is able to propose substantial spending increases but also
2 meet the charter limit, provide reserves for next year in terms of school construction. All
3 of that is good news. As you move out, however, into the years FY '08 to FY '12, what
4 you find is that the plan works if you assume current rates for all taxes including the
5 property tax. And that, of course, is a problem. Fiscal plan is only a snapshot in time.
6 They do change. But that is an issue for us to continue to look at. And finally, the
7 question is how should the Council proceed between now and six weeks from now to
8 complete work on the budget? Last month the Council President suggested that our
9 analysts and our Committees look seriously at items in the recommended budget that
10 could be either rescinded or reduced or deferred. I think that's good advice. Particularly
11 because the Councilmembers own priorities are not going to be able to be funded
12 unless there is fiscal room. Yesterday the PHED Committee met. As I understand it
13 what you did in the PHED Committee was increase lap savings by a million dollars. That
14 will provide fiscal room. You took up options for technology that would fill up that space.
15 But those additional expenditures would go on the reconciliation list. They would be
16 appraised at the end of the process along with everything else that is on the
17 reconciliation list. Community grant requests and other initiatives from Councilmembers.
18 But it's important, I think, for the Committees to follow the Council President's advice,
19 because otherwise we will not have the fiscal room we need at the end of the process. I
20 will stop there and be happy to discuss any issues.

21
22 Council President Leventhal,
23 Ms. Praisner.

24
25 Councilmember Praisner,
26 I think Mr. Farber gives us an excellent overview, especially if one takes the time to read
27 the packet about the challenges that we face. Not necessarily this year, but in the
28 future. Sustainability is an issue, capacity is an issue. Flexibility is an issue for the
29 future. I think it will be important for us to look at what are those looming obligations and
30 also what may be things that we may want to do this year and how long the tail may be.
31 How long the future cost implications may be. So I've suggested within the MFP
32 discussion yesterday, that one of the things we really need to focus on this year,
33 recognizing that there are significant revenues this year, unexpected and projected for
34 the coming year as a result of income tax and significant transfer and recordation tax
35 and basic property tax with construction. There are also I think, as we talked within the
36 economic indicator discussion, there are things to be not alarmed about, but to be
37 cautious about when it comes to interest rates, when it comes to slowing of construction
38 for housing and -- and when it comes to some of the -- especially some of the knowns
39 that we have for the future. I want to talk about, just briefly about the GASB
40 requirements for a AAA County. And Mr. Farber made some comments about them. but
41 I want to reinforce that point. In the FY '08 -- starting with July '07 -- jurisdictions such as
42 Montgomery County are going to be required to document, reveal, and incorporate
43 within their financial reports the exposure that is associated, not just with retirement
44 costs and personnel costs, which we have been reporting, but also the exposure
45 associated with health care costs for both our retirees and current employees. As the

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1 fiscal plan indicates, that exposure at this point is projected to have a \$168 million, I
2 believe, price tag, the difference between what we budget now day-to-day, and what we
3 would -- what our exposures are from a long-range perspective, I think it's \$168.

4
5 Stephen Farber,

6 It's about 160 or 156 the first year, it's in that range, and that's per year.

7
8 Councilmember Praisner,

9 Thank you, Mr. Farber. That is without the kind of reanalysis and calculation that needs
10 to take place in order to fully understand the magnitude of the Medicare changes and
11 health care changes. Although, I think folks who have been looking at that would
12 assume that -- have now indicated they believe it will not have the kind of significant
13 reduction and exposure costs that one might have thought initially. With that in mind, I
14 think the comments at the bond rating agencies was -- there was a lot of discussion
15 about that issue. And I think there is a significant -- while there was compliments for the
16 County and the fact that we have publicly discussed this issue and have developed a
17 plan to plan and a plan to meet these obligations or to address these obligations. There
18 is also, I think, from the bond rating agency's comments, at least a few of the individuals
19 an expectation that there is a higher standard for a AAA bond rated County when it
20 comes to meeting these obligations. That's why I think it's important for us to
21 acknowledge we have this looming problem. Maybe not for a one-year solution, but for
22 a multi-year plan to solve the problem. The second point I would make is that there are
23 assumptions within the fiscal plan that we may or may not accept as we go forward.
24 Assumptions about the charter limit and property tax, which has as I think one
25 newspaper highlighted a \$1.6 billion implication for the County over the years. And also
26 expectations from the fiscal plans projection of a 6 percent increase, average increase
27 in each coming budget, a question about whether that is, given most recent experiences
28 over that six percent, whether that's likely to be the proposals and the actions of the
29 elected officials. So, I think this is a good year for the County. But it also is one in which
30 I think we need to proceed cautiously from a one-time versus on-going cost obligation
31 as far as the budgets are concerned. The other comment that Mr. Farber makes in his
32 packet relates to the tax levels on other -- on other elements of taxes, and the need to
33 review and project those as well, and also to see whether they are sustainable over
34 time. So thank you, Mr. Farber for the overview. This will be -- we end the four years of
35 the Council in certainly a different position than the first budget that we had to go
36 through. But each one of them needs to be looked at with the same kind of both of
37 future, long-term, as well as current implications. So, I think the next few weeks will be
38 interesting, to say the least.

39
40 Council President Leventhal,
41 Mr. Andrews.

42
43 Councilmember Andrews,

44 Thank you, Mr. President. I want to thank Ms. Praisner and Mr. Farber for their very
45 diligent work on the fiscal plan and the analysis of the implications of the Operating

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1 Budget. We're very lucky to have someone like Steve Farber, who really is a national
2 expert on fiscal policy, doing this analysis for us. You have to look at two things here,
3 one is the budget this year, and one is the six-year fiscal plan because the assumptions
4 are different in them. In the current proposed budget from the County Executive the
5 assumption is that the budget is at the charter limit which means that property tax
6 revenues will basically not go up more than the rate of inflation for the typical
7 homeowner. For the five other years of the fiscal plan, years two through six, the County
8 Executive is assuming that the Council will override charter limit and allow property tax
9 revenues to be at the current rates, which would be a 10 percent increase a year, year
10 after year, for most homeowners given the very high assessments that we have had in
11 the last several years. That's an unsustainable and unrealistic assumption. But that's
12 what the six-year fiscal plan is predicated on in this budget. That's a real concern of
13 mine and other people as well. That's not a sustainable six-year plan. That won't
14 happen. But that is what we have laid out here over the six-year period. So, while this is
15 a year where revenues are strong and the budget has the ability to be adopted as
16 proposed, the question is, is it sustainable? If these are the assumptions that are
17 presumed for its sustainability over six years? I think that's a big problem. So, I think we
18 need to look -- as we consider this budget we need to look further out than one year.
19 We need to look at whether the elements of it are affordable -- sustainable three or four
20 years from now. We need to separate out what are the one-time expenditures which
21 clearly have a different implication than continuing expenditures. That's something we
22 should pay a lot of attention to I think as a body, as a Council. So I wanted to, again,
23 thank Steve Farber for his work in producing the chart on Circle 61, which shows the
24 difference. Basically the difference is that home owners in Montgomery County would
25 pay an additional \$1.6 billion in property taxes in the last five years of this fiscal plan,
26 starting in FY '08 if the assumptions of this are carried out as assumed by the County
27 Executive that the County would override the charter limit in those five years and allow
28 the property taxes to be at the same rates. I think I'm reading that correctly. Right?

29
30 Stephen Farber,

31 Yes. That's correct. The assumption in the recommended fiscal plan is that property tax
32 rates like all tax rates would remain at their current levels.

33
34 Councilmember Andrews,

35 All right. So that would mean that home owners over those five years would be paying
36 \$1.6 billion in property taxes to the County above the inflation rate?

37
38 Stephen Farber,

39 Yes. That's right. Above the charter limit. And the implications of adhering to the charter
40 limit are shown on Circle 61 at the bottom of that table where it says Property Tax at FIT
41 -- which is Fairness In Taxation -- the charter limit. If do you it here to FIT, if do you
42 adhere to the charter limit, then the budget gaps which are otherwise manageable
43 become more difficult to manage.

44
45 Councilmember Andrews,

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1 Thank you.

2
3 Council President Leventhal,
4 Mr. Perez.

5
6 Councilmember Perez,
7 Thank you, Mr. President. Thank you, Mr. Farber, again for your incredible work, as
8 usual. It's always nice to have my annual recitation of Baumol Disease. You seldom get
9 to integrate that into your discourse anywhere. So I always look forward to that memo
10 where we can discuss Baumol Disease. I have my Pepto Bismal in my office to treat my
11 Baumol Disease and my proctologist has assured me that things are going well.

12
13 Stephen Farber,
14 Glad to hear that.

15
16 Councilmember Praisner,
17 Too much information.

18
19 Councilmember Perez,
20 Enough for now, enough for now.

21
22 Stephen Farber,
23 I actually studied economics with Professor Baumol he's quite a guy.

24
25 Councilmember Perez,
26 Good. Good.

27
28 Stephen Farber,
29 And he likes string quartets.

30
31 Councilmember Perez,
32 I seem to recall when the legislature adjourned, did they do some tinkering with the
33 circuit break breaker?

34
35 Stephen Farber,
36 Yes, they did.

37
38 Councilmember Perez,
39 What is the fiscal impact in '07 if any, and could you outline what we need to be thinking
40 about as it relates to the amendments to circuit breaker?

41
42 Stephen Farber,
43 Yes, well, one of the best accomplishments of the Council last year was to expand the
44 circuit breaker. Mr. Firestine's report is included in this packet. And there were some
45 really good results. I think that was an outstanding achievement by this Council to

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1 expand the County supplement to the state circuit breaker. The General Assembly, as
2 you said, this year did expand the state circuit breaker. What that means is we have the
3 opportunity now, since the state has taken some of the burden that we are now taking in
4 terms of revenue loss, we have the opportunity once again to expand our supplement.
5 And I've included in the packet Mr. Faden's memo which posits a one way of going
6 about expanding once again the County's supplement to the state circuit breaker. We
7 are now working with the Finance Department on options and we will shortly have some
8 options for you. But the bottom line is, we have a golden opportunity once again to let
9 more people benefit from this tax relief than you were able to do last year with the
10 expansion of the circuit breaker.

11
12 Councilmember Perez,
13 Okay. When do you expect to have some options for us?

14
15 Stephen Farber,
16 We ought to have those within the week.

17
18 Councilmember Praisner,
19 Well, we do the hearing and...

20
21 Stephen Farber,
22 That's right, the revenue is hearing coming up -- I believe it's week after next, or I
23 believe it's next week; the 27th, I think. And the MFP Committee will be meeting shortly
24 after that. We expect to have options for you shortly. Again, this is a really great
25 opportunity to let even more people benefit. The number of people who received the
26 County supplement to the state's circuit breaker on the basis of your action last year
27 more than doubled to 5,000.

28
29 Councilmember Perez,
30 I saw that somewhere. Where was it? I know I read it?

31
32 Multiple Speakers,
33 35.

34
35 Councilmember Perez,
36 35?

37
38 Stephen Farber,
39 It more than doubled to 5,000, and the tax relief that you provided...

40
41 Councilmember Perez,
42 What was the average?

43
44 Stephen Farber,

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1 The average was nearly \$900. I think it was \$886 per credit and the dollar total of the
2 credits increased almost seven-fold, so this was really -- to \$4.5 million. This was really
3 an excellent achievement last year. And again, now you have the opportunity to expand
4 even further the County supplement to the state circuit breaker given the General
5 Assembly's action to expand the state portion of it.

6
7 Councilmember Perez,
8 What was our assumption last year? You're always -- kind of throwing darts -- quality to
9 it. What did we assume and how did that compare to our assumptions?

10
11 Stephen Farber,
12 We assumed a revenue loss of about \$6 million. Mr. Faden had suggested he thought it
13 was a little high and he turned out to be correct. The revenue loss was about \$4.5
14 million.

15
16 Councilmember Perez,
17 Where is our friend Mr. Faden? He's not up here...

18
19 Councilmember Praisner,
20 He is working in his office.

21
22 Stephen Farber,
23 He is with Professor
24 Councilmember Perez,
25 He's with Professor doing whatever those Baumol do. I had my Baumol.

26
27 Councilmember Praisner,
28 Don't...

29
30 Councilmember Perez,
31 Okay, so it was four and a half million?

32
33 Stephen Farber,
34 Yes, our revenue loss was \$4.5 million and the operating assumption we have now is
35 we will try to put together for your consideration an expansion of the County supplement
36 that would also consume \$4.5 million. In other words it would be that revenue loss
37 because the state will be making up for part of what we are now paying.

38
39 Councilmember Perez,
40 Right. \$4.5 -- moving in the right direction. That's still a relatively low participation rate.
41 There's still a fair amount of money being left on the table for taxpayers?

42
43 Stephen Farber,
44 Exactly right, one of the basic problems with the circuit breaker is you have to apply for
45 it. And you have to apply for it, not just one year, but every year. It's not automatic. The

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1 state doesn't do that work for you. It would be better if the state did. Unfortunately it
2 doesn't. One of the obligations we have and we tried to do this a lot in the last year or
3 two is to get the word out so that people understand those who were going to benefit
4 from this. People of limited income and assets who are going to benefit from this will
5 know about it. And what we've got to do this year, once again, is to get the word out
6 very aggressively, so that people throughout the County who will benefit will actually
7 know about it and apply for it.

8
9 Councilmember Perez,
10 I understand we have run out of drug discount cards. Maybe we can use that
11 opportunity on the back of those to...

12
13 Councilmember Praisner,
14 We are working on that.

15
16 Councilmember Perez,
17 ...to print up information about the circuit breaker.

18
19 [LAUGHTER]

20
21 Councilmember Perez,
22 With all the incumbents' names on the back.

23
24 Councilmember Praisner,
25 Brought to you by your County Council.

26
27 Councilmember Perez,
28 Sorry. I'm in a bad cycle right now. I apologize. It seems to me we need to study -- I
29 mean, when there are people out there eligible who aren't applying. I would be curious
30 to have a more detailed accounting of the marketing that we did do, a better sense of
31 what we think worked, what other ideas are out there. Because I don't want to -- I'm not
32 content -- I don't think anybody is content with 10 or 15 percent participation rate, which
33 I think is the ballpark of where we are right now. I would much -- these are the people
34 who need the most help. We are doing a better job of getting the word out to the people
35 who need the most help. But we clearly have a ways to go as evidenced by the data. I
36 would like to continue this discussion. I'm sure the Chair of the MFP Committee will play
37 a lead role in that because I really do want to learn more about what we can do because
38 this is a great program. I mean, I'm tickled to see that people are availing themselves.
39 This is targeted relief for those that need it most. Let's continue to figure out how we can
40 build on that. I wish Mr. Faden had been absolutely wrong. I wish we had actually
41 exceeded \$6 million, because people had availed themselves of it. This is a goal we
42 should strive for. Let's learn about what we did right and what we could have done
43 better.

44
45 Stephen Farber,

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1 I agree with that, Mr. Perez, and I would add we have a somewhat parallel situation with
2 our Prescription Drug Discount Card program, Montgomery RX. That program
3 emanated from the work of the task force that you led on prescription drugs in April,
4 2004. That led to a Council resolution. The County Executive joined the Council in that
5 effort in late 2004. The Council President and Ms. Praisner as MFP Chair recently wrote
6 to the County Executive suggesting that although this Prescription Drug Discount Card
7 Program has been very successful, we seemed to have plateaued at 4,000 users per
8 month. And yet we know there are more people who would benefit from this kind of
9 prescription drug assistance. So once again, what we really need is outreach. We need
10 reach out to the folks who would benefit from this. And I think that's another example of
11 the kind of thing you you're talking about what we need do with the circuit breaker.

12
13 Councilmember Perez,

14 Okay. I look forward to learning about our options, because this has been a program
15 that has interested me from the get-go. I would love to see how we can get that relief
16 into the hands of as many people as possible. Thank you.

17
18 Council President Leventhal,
19 Mr. Silverman.

20
21 Councilmember Silverman,

22 Thank you, Mr. President. I want to follow up on Mr. Perez's comments. Two questions:
23 The first is, in terms of getting information, I certainly agree that marketing is a piece of
24 it. The placeholder that's been put in is actually an expansion of the program. I guess
25 the question I would have for staff is whether the challenge of providing more targeted
26 property tax relief under the circuit breaker is a function of marketing or a function of
27 income level or value of the home? Because I don't see in Mr. Firestine's report --
28 because normally it wouldn't be in here -- the answer to questions about eligibility. I
29 mean, there's information in here, Tim, about eligibility for the state credit and how many
30 people got bounced out because of that. But what we don't have is, okay, so 5,121
31 homeowners got a County credit, how many applied? Of those people, what was the
32 reason why they didn't get the credit? Ah, Mr. Firestine has the answer!

33
34 Tim Firestine,

35 In the packet we provided, there's a note on page 46 that you can see under -- this is a
36 state credit. and David Platt is certainly our expert on this, but 7,400 actually applied.

37
38 Unidentified Speaker,
39 Where are you?

40
41 Tim Firestine,
42 I'm on Circle 46.

43
44 Councilmember Silverman,
45 I read that to be the state credit.

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1 Tim Firestine,

2 This is the state credit, right. And then the question is of that 7,400 how many of those
3 would have been eligible for some County credit? Dave, do you know the...

4 David Platt,

5 It was still 7,400 total as far as we know.

6 Tim Firestine,

7 Right. Right. So the total was 7,400. 5,000 of those -- because we gave 5,000 County
8 credits. So the difference between the 5,000 and the 7,400, you had about 2,000...

9 Councilmember Silverman,

10 So you have to apply for the state credit? Okay, I didn't understand that. Okay. I guess
11 the follow up question, I am not -- I'm certainly not opposed to expanding a piece of
12 legislation that I introduced. But I do want to understand -- I do want to understand
13 whether there are tinkering that need to get done as opposed to the marketing side of
14 things. Because we can certainly expand the dollars that are available by expanding the
15 value of the house that it applies to, which is one of the suggestions in here. But that
16 may provide more property tax relief to the same people as opposed to expanding the
17 number of people that it applies to. I mean, we went from -- which I think actually was
18 on the mark, we went from an average of about \$200 in targeted tax relief per home to
19 \$900. Which is an extraordinary leap and an extraordinary amount of real property tax
20 relief. If we simply provide another \$100 to the same people, that's different to me than
21 getting more people into the program. I must say, with all due respect to the marketing
22 that was done, it was quite minimal. There's a difference between including a letter in
23 your tax bill with information as opposed to for argument's sake, separate mailings, post
24 card mailings, including an application, or any of the other things that I'm sure...

25 Councilmember Praisner,
26 [INAUDIBLE]

27 Councilmember Silverman,

28 Right. Whatever it is. We certainly could be promoting the program to a great extent.
29 The second thing is, I would like to get some dollar figures on. My understanding is if we
30 don't expand the program, the state has essentially given money to Montgomery
31 County.

32 Tim Firestine,
33 Yes.

34 Councilmember Silverman,

35 Maybe I missed it, but I don't think I saw that in here. So I...

36 Tim Firestine,

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1 We're still calculating but, David, I think it's about -- if the program is \$4.5 million, we
2 think it drops to about a million dollars based on the state changes.

3
4 David Platt,
5 The revenue loss.

6
7 Tim Firestine,
8 Come up here.

9
10 [LAUGHTER]

11
12 Tim Firestine,
13 Don't be afraid. They won't bite.

14
15 David Platt,
16 I'm not. Good morning.

17
18 Councilmember Praisner,
19 You have to say David Platt for the TV.

20
21 David Platt,
22 Thank you, Madame Vice President. David Platt, Chief Economist, Department of
23 Finance. The data that we've got, and again, this is preliminary, we're still doing some
24 number reviews, but the first cut that we got from the state is that the credit that we got,
25 as Mr. Firestine said, from \$4.5 million goes down to about 2.2, \$2.3 million under the
26 state program that was just enacted. With the current program, the County
27 supplemental with the recently enacted state program, we lose about 50 percent of the
28 credits, total dollars.

29
30 Councilmember Silverman,
31 I'm sorry, we what?

32
33 David Platt,
34 We lose 50 percent. We're going from \$4.5 million to \$2.3 million.

35
36 Tim Firestine,
37 We reduce the cost...

38
39 Councilmember Silverman,
40 We don't lose it, we gain.

41
42 David Platt,
43 Sorry. Okay. Thank you.

44
45 Councilmember Silverman,

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1 I guess -- my question I guess is, which is for the next item, is, what that included or not
2 included...

3
4 Stephen Farber,
5 No. Not yet.

6
7 Councilmember Praisner,
8 No, we haven't made those decisions yet.

9
10 Councilmember Silverman,
11 That's fine. I just don't want to lose sight of that little piece. I wasn't sure what the dollars
12 were.

13
14 Stephen Farber,
15 The premise is in '07 we would have a circuit breaker cost to the County that's the same
16 as '06.

17
18 Councilmember Silverman,
19 Okay.

20
21 Tim Firestine,
22 To the extent however that that drops from \$4.5 to \$2.5. That doesn't really free up \$2
23 million if you're going to be at the charter limit because that gets factored into the
24 charter limit. In other words, we've subtracted \$4.5 million out. If you gain 2, you have to
25 find another way to lose 2.

26
27 Stephen Farber,
28 It's part of the charter limit calculation.

29
30 Councilmember Silverman,
31 Yeah, yeah. Okay. So what you're saying is that -- that money would -- I'm not putting
32 words -- that money would have to be used for some type of property tax relief?

33
34 Tim Firestine,
35 If you want to be at the charter limit.

36
37 Councilmember Silverman,
38 That's what I mean. The only question is how we would -- okay.

39
40 Tim Firestine,

41
42
43 Just to add one other complication. In the state changes, one of the major changes they
44 made, as you may recall, it counted \$200,000 of net worth. They changed that. Now you

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1 don't have to include things like IRAs and pensions. That creates a whole new universe
2 of potential eligibility participants that we just have no clue.

3
4 Councilmember Silverman,
5 But -- okay. But then...

6
7 Councilmember Praisner,
8 So the point would be that someone who is filling out and was rejected last year might
9 be eligible this year.

10
11 Councilmember Silverman,
12 But the question is that was a change in the state credit. In order to follow...

13
14 Tim Firestine,
15 It could affect us even if we don't make any change. Our program potentially might even
16 cost more than...

17
18 Councilmember Silverman,
19 I guess my question is I thought the legislation that we enacted was specific about what
20 counted and what didn't count for purposes of the County credit. In other words, you're
21 saying that they made a change to the state credit. My question is, does that
22 automatically flow so that IRAs and 401Ks no longer count? Or if we want to track that, do
23 we have to change our local law?

24
25 Tim Firestine,
26 I don't know. We have to check. The \$200,000 I don't recall...

27
28 David Platt,
29 My sense is, Mr. Silverman, that the County law follows that same rule with the state
30 law. In other words, I don't think there's any reference. We will check that.

31
32 Councilmember Silverman,
33 Could we double check on that?

34
35 Councilmember Praisner,
36 If we do need to make a change, we need to introduce that quickly.

37
38 Councilmember Silverman,
39 Or later, but one of the policy decisions.

40
41 Stephen Farber,
42 Actually we did introduce as a placeholder the bill on Circle 55, so we can amend that in
43 any way the Council deems appropriate.

44
45 Councilmember Silverman,

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1 Okay.

2
3 Stephen Farber,
4 That was introduced last week.

5
6 Councilmember Silverman,
7 Okay. Thank you very much.

8
9 Council President Leventhal,
10 Ms. Floreen.

11
12 Councilmember Floreen,
13 Thank you. Tim, could you talk a little bit about the GASB requirements for benefit
14 costs?

15
16 Tim Firestine,
17 Sure, the Government Accounting Standards Board made a change which is effective
18 for us July 1 of '07, which is FY '08. Basically what the change is it requires us to
19 account differently for post retirement benefits other than pensions. Historically, those
20 benefits, which the biggest piece of it is Group Health insurance for retirees. you don't
21 have to account for that liability currently with respect to the financial statements. So,
22 most governments do pay as you go. And it's sort of the evolution where we went
23 through this on pension benefits in the early days with defined benefit pension plans.
24 Most were accounted for on a pay as you go basis, because the benefit cost was fairly
25 low in early years, 'cause you had more active employees than retirees. You had a low
26 cost. What's happened in that sector is all defined benefit plans for years now have had
27 to show the full liability on the balance sheet and most are funded, meaning there is an
28 annual contribution that goes to pay for the benefits including what's called the
29 unfunded accrued liability or those pieces related to changes in cost, whatever that
30 might affect the benefit at retirement. So you're putting away more than your annual
31 payout to those participants. Back to the GASB issue on the table now, they want to do
32 the same thing for post retirement benefits for group insurance. We had an actuarial
33 valuation done in 2003. It said we had about a \$2 billion obligation with respect to post
34 retirement health insurance costs with an annual contribution retirement of \$200 million.
35 We currently put in about \$40 million a year, and this is all agencies of the government,
36 about \$40 million a year towards that payment. So the gap would be about \$160 million
37 to fully fund it. It's just -- accounting requirements does not require you to fund it. They
38 simply require for you to account for it. The problem there is that our financial
39 statements will start to show an increasing liability if we do nothing about it, that'll after a
40 period of time show negative balances on our financial statements.

41
42 Councilmember Floreen,
43 That's in terms of potential exposure, as I understand it, on that responsibility to provide
44 health benefits that we are committed to?

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1 Tim Firestine,
2 Correct. There's a big liability out there that's not measured or reflected in most
3 jurisdictions across the country. There are few places that are prefunded this benefit. So
4 it's huge, this liability. Barron's recently called it "the \$1 trillion pothole," because there's
5 this big, you know, trillion dollars worth of liability out there that's not reported.

6
7 Councilmember Floreen,
8 The liability is potential exposure -- potential...

9
10 Tim Firestine,
11 It's an estimate of the cost of providing benefits to those retirees who have accrued the
12 benefit to date.

13
14 Councilmember Floreen,
15 But have not made claim on it?

16
17 Tim Firestine,
18 Well, there will be some retirees who are currently getting the benefit. And it would be a
19 measure of their expected life span and how much those benefits will be for the
20 remainder of their life.

21
22 Councilmember Floreen,
23 So, basically for anyone who is entitled to make a claim, the question would be, of all
24 those people adding up the total potential exposure responsibility for those obligations
25 with an estimate of their life span and so forth.

26
27 Tim Firestine,
28 Right.

29
30 Councilmember Floreen,
31 If they lived to be my father's age, we're in big trouble. But I wanted to understand, and
32 you said this a couple times. It is not -- it is really a transparency statement of long-term
33 governmental obligation. Not necessarily what would be required under...

34
35 Tim Firestine,
36 Well, the accounting doesn't require you to do anything. Just report what you've done.
37 And then the question is those who you have to report to, whether they are the
38 taxpayers or investors, and in this case that's who we are focused on is the investment
39 community at some point is going say. that's a large liability, we're not going to buy your
40 bonds." Or the rating agencies as they made clear to us eventually if you don't do
41 anything about it, it will affect your bond rating.

42
43 Councilmember Floreen,
44 How have we faired so far in terms of budgeting for our responsibility for health care?

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1 Tim Firestine,
2 We do pay as you go. It's about \$40 million a year. To meet the obligation we should be
3 contributing \$200 million a year.

4
5 Councilmember Floreen,
6 Have we been actually providing -- have we accurately predicted what our liability has
7 been each year?

8
9 Tim Firestine,
10 In terms of pay as you go?

11
12 Councilmember Floreen,
13 Yeah.

14
15 Tim Firestine,
16 I think we've done a good job.

17
18 Councilmember Floreen,
19 We've been pretty close?

20
21 Tim Firestine,
22 Right. Simply a projection of the claims that would come due that year, that's all you're
23 paying.

24
25 Councilmember Floreen,
26 So, we have done it year-by-year, though, and we've been pretty much within the range
27 on target in terms of actual liability?

28
29 Tim Firestine,
30 Right.

31
32 Councilmember Floreen,
33 So when you calculate the County's responsibility in this regard, do you sort of take a
34 snapshot of who is out there...

35
36 Tim Firestine,
37 That's what you do.

38
39 Councilmember Floreen,
40 ...based on what you understand to be at least a one year actuarial expectation you can
41 deduce from that what the County's exposure has been. So far we have been pretty
42 good on that?

43
44 Tim Firestine,

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1 Well, we've only have one valuation done. That was done in 2003. So, I'm not sure how
2 to answer your question. We're going to update that valuation because one of the things
3 that's happened since that valuation is Medicare Part D, which is the Prescription Drug
4 Plan. We anticipate that to have an effect on the cost of providing the benefit for
5 retirees. It's possible that that plus and a couple minuses will end up where we are in
6 the 2003 valuation, which is the \$2 billion and the \$200 million a year.

7
8 Councilmember Floreen,

9 Okay, okay. At least our track record so far has been pretty good in terms of meeting
10 our actual obligations, as opposed to whatever our report -- obviously we have to
11 change how we report things.

12
13 Tim Firestine,

14 I don't think I would say it that way. We have made estimates of the claims that have
15 come due for those retirees, for those people who have retired. We have done nothing
16 towards the total obligation with respect to our active employees who is some day are
17 going to retire, retirees who are going live longer, benefit changes, things like that.

18
19 Stephen Farber,

20 Ms. Floreen, I mentioned what Baltimore County has done to prepare for this obligation.
21 The state this year put \$100 million into a GASB set-aside. New York City put a billion
22 dollars into a GASB set-aside. Many other jurisdictions have been moving towards the
23 funding obligation that they know will be coming down the pike.

24
25 Councilmember Floreen,

26 Sure. Okay. This is going to be a continuing saga, obviously. Thank you.

27
28 Council President Leventhal,
29 Mr. Knapp.

30
31 Councilmember Knapp,

32 Thank you. Couple quick questions. Some holes out there. We talked about the circuit
33 breaker. Going on Mr. Perez's comments. Do we have any feedback as to what
34 participation rates are in other Counties? Is our participation rate kind of hit the norm?
35 Or we well above or below?

36
37 Tim Firestine,

38 First of all there are few jurisdictions that have a supplemental County credit.

39
40 Councilmember Knapp,
41 Right.

42
43 Tim Firestine,

44 And if you look at the state credits, most of the state credits go to the Baltimore city
45 area. I mean, compared to Montgomery County.

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Councilmember Knapp,
But it's the same process.

Tim Firestine,
Exactly.

Councilmember Knapp,
Someone still has to apply for that credit.

Tim Firestine,
They do. In terms of participation rates -- I don't know. I don't know if anybody else in other Counties has looked at what is their universe of possible or potential participants and how much participation do they get. I don't know -- I'm sure nobody does that. I don't know if anybody at the state does. We can check.

Councilmember Knapp,
It would be interesting to see if -- what do they do that's different or the same that we have done.

Tim Firestine,
Sure.

Councilmember Knapp,
Just to follow up a little bit on the GASB. So, what have other jurisdictions begun to do? To begin -- how many have begun to address this?

Multiple Speakers,
[INAUDIBLE]

Tim Firestine,
I think most -- what you're seeing at the state level, there are a lot of actuarial valuations being done now. The State of California, for example, did a valuation and their numbers or 70 to \$80 billion statewide; State of Maryland, \$20 million. Some places, but since it's '08, one of the challenges is trying to get governments to focus on it. I don't think there's a lot of history out there. As Ms. Praisner said, I think Montgomery County -- even the rating agencies noted that we are ahead of most places in terms of thinking about what we are going to do. The question is, what do you do about it? There are even some states where we heard from the rating agencies that local governments are not authorized to set up trusts for this purpose. So they would have to amend their state laws to allow for that. Part of the process is measuring it first so the first thing you do is get the valuation to see how big of a problem you have. Then second you have to figure out what you're going to do about it. Most of the challenges in the public sectors -- the private sector went through this in the early '90s. They had to start reflecting on their financial statements this exact cost. What happened in private sector is most

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1 businesses stopped providing this benefit for retirees. If you look at General Motors, it's
2 a good example of the problem. Second, the New York Transit strike was primarily over
3 this issue, where New York, or -- . I guess the state was trying to change the insurance
4 benefit for retirees and that's what caused this strike, and it was to start addressing this
5 issue. So, in the public sector the concern is that benefit changes are harder to come
6 by. It will be a more difficult to address in the public sector than the private. How do you
7 do it? There are options. Look at different approaches. One thing we talked about, you
8 have a defined contribution retirement plan which captures liability. If you do a similar
9 thing on the retirement side, maybe you can provide the same level of benefit but not
10 have that long term obligation. In other words you set up a savings account on the
11 health side for your employees and you provide a capped benefit. But those are some
12 of the things you have to look at are benefit changes possible? If not then you have to
13 figure out how to deal with this liability.

14
15 Councilmember Knapp,

16 So, is the expectation -- I mean every municipality is going to have to figure out how to
17 do this, and if we're still ahead of everybody just by actually having done the valuation --
18 or ahead of many, what are people going to do beginning next year? Because you're
19 going to have a situation where most places aren't going to -- you're not going to go
20 from zero to 60.

21
22 Tim Firestine,

23 I think it's a good question. One of the things we've talked to the rating agencies about
24 is that's a big amount to swallow in one year. And, as Mr. Farber said, you do have
25 places that have gone ahead and have tried to set aside money to deal with that and I
26 think Baltimore County's indicated they'll be there next year. But what the rating
27 agencies are looking for is a plan -- and it can be a multi-year plan -- as to how you get
28 to that full funding level. So, you don't have to be at \$156 million the first year in terms of
29 your contribution, but maybe you do 20%, or do it over 5 years.

30
31 Councilmember Knapp,

32 But if you don't do it the first year, you're always playing catch-up that much -- you still
33 have that much more to do the next year.

34
35 Tim Firestine,

36 Exactly. That's an excellent observation. To the extent you don't fully fund it it adds to
37 the amount you have to do the following year. But if you do it over a five- to seven-year
38 time frame, the rating agencies have indicated that that's probably okay. as long as you
39 stick to that plan and get there. It complicates the accounting for it, but that kind of
40 approach would work with them. There are a lot of jurisdictions, as you said, that have
41 not focused on it. And the rating agencies did indicate that they go to smaller
42 jurisdictions issuing bonds, they ask the question of, you know, "Where are you on
43 GASB 45?" and they say "What's GASB 45?" The rating agencies are saying that's a
44 problem.

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1 Councilmember Knapp,
2 Right.

3
4 Tim Firestine,
5 But they did distinguish, they said what their expectation is initially is that their higher-
6 rated credits, your AAAs and AAs are going to do something about it immediately.
7 They're going to have a plan in place, they're going to know about it. And that's what
8 they expect. If it's a lower-rated credit, you know, in the lower "A" range or the higher
9 "B" ranges, they understand it may take more time for them to solve the problem. But I
10 have some good material that the rating agencies have put out on this, talking about
11 what their expectations are that we can share with the Council.

12
13 Councilmember Knapp,
14 I would be interested to see that because, philosophically, we should start figuring out
15 how to do it. By the same token, I just can't believe the even all the AAA jurisdictions are
16 going to figure out how to do this out of the hopper. And so there is a relative activity
17 that is going to take place out there that, Sure, the rating agencies are going to say,
18 "Generally, this is how we would like to see you do it." and then there is going to what
19 about practically happens and some refinement between what the rating agency
20 expectations are, I would guess, and what the jurisdictions are actually doing. And I am
21 just trying to get a sense of how this can be done.

22
23 Tim Firestine,
24 Depends on what the obligations are. I think Fairfax's obligations are smaller than ours,
25 because of post retirement benefits and their AAA rating. There are not a lot of AAA-
26 rated counties.

27
28 Councilmember Knapp,
29 That's the other concern is if you look at these numbers, historically, the numbers are
30 probably the floor. because we've got all of our contracts are open -- are up again next
31 year, and the expectation would be, historically, those numbers haven't gone down in
32 the course of negotiations, they've probably only gone up. And so this is probably as low
33 number that we would get -- as we would be confirming, would be my guess.

34
35 David Platt,
36 Yeah, I don't know that our retiree health benefits would change in the contracts. I think
37 it's the pension benefits that would change, as they have over the last seven years.

38
39 Councilmember Knapp,
40 Okay, if we were to actually -- and I don't know that we will or not -- but if we were set --
41 say we do what Baltimore County was doing, if we put some money aside, do we have
42 the ability to do that? Do we have a mechanism in place that would allow us to do that?

43
44 Tim Firestine,

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1 We would -- and not to get too technical -- but one of the things we don't want to do is
2 not set up the trust, if we go the trust route, until July 1st. Because there is another thing
3 called GASB 43 which requires if you have a trust setup before that point in time, you
4 have to actually account for the trust. But in the meantime we could put it in a special
5 revenue fund. And so, yes, the answer is we have a mechanism to put it somewhere.

6
7 David Platt,
8 That's what Baltimore did.

9
10 Councilmember Knapp,
11 And the expectation would be if we -- for the sake of argument -- put \$25 million in trust,
12 that would be reliability for what we would need for next year. We'd just take that off the
13 top of next year's commitment?

14
15 Tim Firestine,
16 It would factor into whatever your plan is, what do you for long-term. It would represent
17 a commitment that you're going to get started on solving the problem.

18
19 Councilmember Knapp,
20 Okay, thank you. One more question, the tier approach, the Tier 1, 2, and 3 on page 10,
21 Mr. Farber, or -- or Mr. Firestine, it projects agency expenditures rising at a rate of 6.3%.
22 Does that 6.3%, I mean effectively, that assumes all of our contracts stay as they are
23 right now and that would, that would contain everything.

24
25 Stephen Farber,
26 Yeah, the 6.3% is an average of the last 10 years in terms of the rate at which agency
27 expenditures have increased. And that is supposed to accommodate, theoretically, any
28 collective bargaining agreements and any other expenses. The point I make on page 10
29 is that 6.3% may have been an appropriate figure if you average the last 10 years. If
30 you look at the last two or three years and the spending course that we're on, for
31 example, in this budget, the '07 budget, the agency uses go up by 9.6%, not 6.3.

32
33 Councilmember Knapp,
34 That's what I'm trying to get, so, as opposed to looking at additional expenditures, if you
35 were looking at the same budget, would the 6.3% effectively accommodate a same-
36 services budget?

37
38 Stephen Farber,
39 I Think that's hard to know, it depends on what is in the base. But I do think it's safe to
40 say that to assume that agency expenditures are going to increase over the next six
41 years by only 6.3% is probably a very conservative estimate.

42
43 Councilmember Knapp,
44 That's all I was trying to get to, so even the 6.3% is probably a low number.



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1 Stephen Farber,
2 Yes.

3
4 Councilmember Knapp,
5 Even if you use, that the gap is probably a bigger gap.

6
7 Stephen Farber,
8 I believe it is.

9
10 Councilmember Knapp,
11 Okay. All right. Thank you all very much.

12
13 Council President Leventhal,
14 Okay, thank you. That concludes this Agenda Item. We're turning to the Spending
15 Affordable Guidelines for the Operating Budget. Chairwoman Praisner.

16
17 Councilmember Praisner,
18 I will try to make this brief and clearer than maybe the packet -- addendum packet is.
19 Let me just say that the Committee reviewed all of the revenue estimates and at this
20 point this time is assuming, as the County Executive is, all of the revenue estimates,
21 including the property tax being applied by the charter limit, that allows the Council to
22 consider all of the options that it has in front of us, but does not come to a conclusion at
23 this point, allows us to work through that process. The one area where we have an
24 issue is in the assumption of revenue coming from the state. And as you know at this
25 point in time we have the knowledge that the County Executive didn't have when he put
26 the budget together because it was still part of the session. We have the knowledge of
27 what specifically the legislature did this year. And from the standpoint of state aid, what
28 we have is a put and a take. Unfortunately the take is greater than the put. We have
29 received \$1.8 million in additional revenue, that's the resolution of the issue of
30 transportation money that is an FY '06-'07 issue, a debate between the legislature and
31 the governor as to whether it was funded and how much. Fortunately, that was resolved
32 with a positive resolution that was a little over \$25 million total, and to all the counties
33 and our share is \$1.8 million. That is on the plus side. On the negative side is the state
34 aid for education. And, unfortunately, again this year, the governor and the legislature --
35 well, the governor because, obviously, the legislature can't add, it can only subtract
36 when it comes to the Operating Budget -- the legislature -- the governor did not fund the
37 Geographic Cost of Education. For Montgomery County in this coming year, that
38 amount is \$17 million. So, you start state aid with a \$15.2 million reduction in the
39 assumptions of the County Executive as far as his revenues are concerned. Everything
40 else being equal, we did not adjust anything else as far as our recommendations. You
41 can see that the total revenue for MFP from state aid is lower and, therefore, you have
42 that negative reduction from that assumption. The next issue is the issue of targeted, of
43 reserves. There are three components of reserve, but the bottom-line policy which is a
44 important issue from a standpoint of maintaining policy is that there should be 6% of
45 resources minus the revenue stabilization fund. The issue that is associated with that is

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1 that the County Executive had projected additional revenue in the reserve fund. I think
2 his amount was \$27.1 million. A part of that, though, incorporated an assumption of
3 \$15.3 million for capital projects for FY '08. In order to keep the 6% policy, which, again
4 is an important component of maintaining consistency in our policies, and taking into
5 consideration the state aid spending reduction and not counting the \$15.3 million for the
6 schools in FY '08, leaves the Council with a \$2.8 million difference from the Executive's
7 budget to the Council's budget. In order to be consistent at this point in the process and
8 with the policies that we are trying to manage, what the Committee is recommending is
9 that the allocations to the agencies -- and this would be built on 100% of their request --
10 which means including Park and Planning, 100% of their request, the reduction for
11 MCPS which would allow Geographic Cost of Education funding from a one-time basis
12 of the County, and allow the School System to have the \$15.3 million set aside for
13 Capital Budget in '08 is a \$1.5 million reduction. County government would be \$1.1
14 across all agencies; College, .1; and Park and Planning the same .1. This is from their
15 approved budgets. This is the beginning of the process as we indicated. Flexibility
16 would be associated with looking at property tax in different perspectives. And have also
17 that issue of the tax credit and how we might use those revenues for property tax relief
18 as well. So, that's the Committee's recommendation. I did want to make one very brief
19 comment and it relates to an editorial in "The Washington Post" yesterday. Headline:
20 "Montgomery County's Unseemly Windfall" -- and lest others, including my family
21 members, who saw the editorial thought that we had all of a sudden gotten \$20 million
22 more. I want to make sure folks understand that there is no \$20 million more for
23 Montgomery County. That the issue relates to changing education funding policy and
24 process before full implementation of Thornton. And if one calculates differently this one
25 formula, it would have meant a reduction of \$20 million in an otherwise not fully-funded
26 Thornton allocation for education at this point. So, we would have lost the projected \$20
27 million and we also are not getting the \$17 million under the Geographic Cost of
28 Education. So, it would have been a \$37 million reduction in anticipated education
29 funding over a two-year period in the Thornton obligations, which, as the Thornton
30 Committee recommendations state, are to be re-examined from a formula perspective
31 after fully funding all of Thornton, which is likely to come in the FY '08-'09 period. And
32 there are lots of things that can be looked at in the formula, including how one
33 calculates attendance and the student count, which is now only done on one day, and
34 could be done average daily attendance over the year and might affect allocations to
35 jurisdictions. So, I think Mr. Subin had a question, but that's basically the Committee's
36 report.

37
38 Councilmember Subin,

39 Thank you, Madame President, or Madame Chair. I can't admit to understanding the
40 way those numbers are working out or the "Post's" rationale at all. Which isn't a change
41 not understanding the "Post" rationale. That's an easy thing to do, to not understand
42 them. Wouldn't -- even if they were right -- for the sake of argument, they're right this
43 year because of the switch in timing.

44
45 Unidentified Speaker,

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1 Actually, it would have been next year's.

2
3 Councilmember Subin,

4 Next year, this year; next year, 10, whenever it is. The switch in time. Doesn't that all
5 work out for everybody over -- starting the next year? Because if the timing changes
6 once and stays changed, no one's changing it for one year and then coming back. It's
7 changed.

8
9 Unidentified Speaker,
10 Yes.

11
12 Councilmember Subin,

13 And so the year then begins at a certain time and ends at a certain time every year.

14
15 Councilmember Praisner,

16 No, I don't think so because of what you're calculating in the box each year is a bigger
17 pot with a different dollar amount. It's not that it changes. It's not that it's a rolling
18 situation. I understand your point, but it doesn't work that way.

19
20 Councilmember Subin,
21 Why -- go ahead, Tim.

22
23 Tim Firestine,

24 I think maybe the logic that has been causing the confusion is you lose the \$20 million
25 the first year. You would still \$20 million the following year. But it's not an additional \$20
26 million, it's not \$40 million the next year and then \$60 the next year. It's a permanent
27 adjustment to that line because the wealth factor would increase to include the last
28 distribution.

29
30 Councilmember Subin,

31 But wouldn't, but wouldn't everybody get a similar adjustment?

32
33 Tim Firestine,

34 No.

35
36 Councilmember Subin,

37 That's the -- I mean...

38
39 Councilmember Praisner,

40 Everybody gets an adjustment...

41
42 Councilmember Subin,

43 Whatever the adjustment is...

44
45 Councilmember Praisner,

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1 ...but we're affected more.

2
3 Tim Firestine,

4 There is a dramatic difference in the late filings for Montgomery County than for anyone
5 else in the state. The only two counties that would have been affected negatively by it
6 are Montgomery and Baltimore County. Baltimore's impact was \$6 million or something
7 like that. Everyone else gains...because it's taking that total pot and then distributing it
8 differently. So, there have to be winners and losers if the size of the pot doesn't
9 necessarily change.

10
11 Councilmember Subin,

12 The size of our pot and it's the size of -- remember, I started this conversation and I
13 have no idea. and I don't understand, I'm trying it...

14
15 Councilmember Praisner,

16 It's -- the point is that because we get so much of revenue at a point in time that is
17 different from most jurisdictions, it affects us more. And in a subsequent year when you
18 look at the pot, it's still -- that problem is going continue. Because it changes the window
19 looked at by the state.

20
21 Councilmember Subin,

22 Well, when it comes to these matters, I implicitly trust Madame Chair and Mr. Firestine,
23 and it appears I'm going to have to stay that way on this one because until someone
24 draws this out as a picture. with different colors, I don't think I'm going to get it. It just
25 doesn't...

26
27 Councilmember Praisner,

28 Well, we'll have more time to discuss it because it was not implemented, but it will, as I
29 said, looked at in isolation will have a negative affect on Montgomery County, and to a
30 smaller extent, Baltimore County, but there are lots of pieces in the Thornton formula
31 that need to be looked at. Our key point at this point is it hasn't even been fully funded
32 yet.

33
34 Council President Leventhal,
35 Ms. Floreen.

36
37 Councilmember Floreen,

38 I had a question not about this issue but about the action that we're asked to take. If --
39 the Committee is making recommendations with respect to a variety of things here. Our
40 position on the resources and the issue, of course, the numbers are the numbers we
41 can't change that. The position's with respect to the targeted reserve and how that's
42 handled. Is that a...

43
44 Councilmember Praisner,
45 We haven't...

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1
2 Councilmember Floreen,
3 ...has to take today?

4
5 Councilmember Praisner,
6 Yeah, we haven't changed County policy. I think the position of the Committee is
7 consistency with the policies that we have adopted in the past and as it relates to the
8 reserve and its three components. It's more complicate this year because usually the
9 designated reserve component in the past has been a small amount -- 2 to \$3 million. In
10 this year the likelihood -- well, the designated amount associated with school
11 construction for FY '08 is a significant amount and therefore is not available to be -- it
12 pulls out more out of the reserve and reduces flexibility for the coming year that way.

13
14 Councilmember Floreen,
15 Right. And the Committee is also recommending, I guess, tentatively, I guess, that with
16 property tax should be at the charter limit based on a total rate reduction.

17
18 Councilmember Praisner,
19 Actually what the Committee is recommending we calculate the revenue based on this
20 assumption. We're not taking a position on how it should be calculated for final Council
21 action, that's where the flexibility comes. But at this point in the process we thought that
22 you should assume the maximum reduction in revenue from property tax because to do
23 otherwise would be to have the Committee set policy before we've had the discussion.

24
25 Councilmember Floreen,
26 Well, sure. And of course a couple of proposals on the table to look at, alternative
27 approaches as Mr. Farber's identified them. I just wanted to be clear that if we go with
28 the Committee's recommendation -- which I expect we would -- to make any changes
29 would require a seven-vote position of the final wrap-up, is that correct?

30
31 Councilmember Praisner,
32 Yeah, that's correct and it also -- because of the, because of the six-vote requirement --
33 I think it's a six-vote budget anyway.

34
35 Councilmember Floreen,
36 Is that correct? A six-vote budget, no matter what?

37
38 Charles Sherer,
39 Yes, ma'am, because it exceeds the rate of inflation by so much.

40
41 Councilmember Floreen,
42 What are the elements making it into a seven-vote budget?

43
44 Charles Sherer,

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1 On row 35 is something called the Aggregate Operating Budget, that on the
2 Committee's recommendation is \$3.4122 billion and if you were...

3
4 Councilmember Floreen,
5 Which one? 3-point...

6
7 Charles Sherer,
8 Row 35, column A-D. Last column.

9
10 Councilmember Floreen,
11 The last. Okay. Yeah.

12
13 Charles Sherer,
14 \$3,414.2 billion. That's what you're setting as the ceiling on the Aggregate Operating
15 Budget, which is essentially total spending. If you approve a budget exceeding that in
16 May, that requires seven votes.

17
18 Councilmember Floreen,
19 Is there anything other element of this...

20
21 Councilmember Praisner,
22 No.

23
24 Councilmember Floreen,
25 ...that makes it into a seven-vote budget?

26
27 Councilmember Praisner,
28 Going over the charter limit as far as revenue.

29
30 Councilmember Floreen,
31 A part of that.

32
33 Charles Sherer,
34 If you exceed the charter limit on property taxes that requires seven affirmative votes
35 also

36 Councilmember Floreen,
37 Right, so property taxes -- the property tax element and then...

38
39 Councilmember Praisner,
40 No, no, no! Property tax revenue above the charter limit.

41
42 Councilmember Floreen,
43 Right.

44
45 Councilmember Praisner,

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1 Not this element.

2
3 Councilmember Floreen,
4 And this -- well, the \$3.4 billion number that we have in that last row, down at the
5 corner. Any amount over that would be require seven votes?
6

7 Charles Sherer,
8 Yes, ma'am, so if you had additional revenue and wanted to spend it, that would require
9 seven votes.
10

11 Councilmember Floreen,
12 Okay. Those are basically the two categories...
13

14 Charles Sherer,
15 That require seven votes, yes, ma'am.
16

17 Councilmember Floreen,
18 and otherwise, it would require six votes no matter what.
19

20 Charles Sherer,
21 That's right, because it exceeds the previous year's budget by more than the rate of
22 inflation.
23

24 Councilmember Floreen,
25 Okay. That's what I wanted to clarify. Thank you.
26

27 Council President Leventhal,
28 Okay, the recommendations of the MFP Committee regarding the Spending Affordability
29 Guidelines are before the Council. There are no further comments. Those in favor of the
30 Committee's recommendations will signify by raising their hands. It's unanimous among
31 those present.
32

33 Councilmember Praisner,
34 Thank you.
35

36 Council President Leventhal,
37 We now turn to amendments to the 10-year Comprehensive Water Supply and Sewage
38 Systems Plan, Water and Sewer Category Changes. Chairwoman Floreen.
39

40 Councilmember Floreen,
41 Thank you, Mr. President. The T&E Committee recommendations are before you. The
42 Council President was at another responsibility on the day we met, so he, Mr.
43 Leventhal's, comments are not included here. They're pretty straightforward. Do we
44 need Keith?
45



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1 Councilmember Praisner,
2 Where's Keith?

3
4 Councilmember Floreen,
5 Not necessarily, but...

6
7 Councilmember Praisner,
8 Just keep rolling and I'm sure he'll join us. Alan's here, so.

9
10 Councilmember Floreen,
11 If anyone has a question. Basically if you look at page 2, there are some consent items
12 where there was agreement between all parties. Two of them withdrawn by the
13 applicant. The third one, Ms. Reed's application, we supported the recommendation to
14 approve it. Mr. [Burnett's] application, we supported the recommendation to deny it, and
15 the third one, which involves the Lakewood Estates Public Health problem area, we
16 agreed with the recommendation to designate it a public health problem area and to
17 follow up with actions to prove water and septic appropriately for properties in this
18 location.

19
20 Councilmember Praisner,
21 Nancy, I had a question about that, if I may?

22
23 Councilmember Floreen,
24 Sure. Here is Mr. Levchenko.

25
26 Councilmember Praisner,
27 The Lakewood Estates bullet -- the second bullet on page 3 makes reference to the
28 Planning Board's support for the Executive recommendation, which I guess is what the
29 committee is also recommending, is that correct?

30
31 Councilmember Floreen,
32 Yes.

33
34 Councilmember Praisner,
35 But it suggests the information to the property owner should be a little more than just
36 all property owners be notified. I wanted to be clear about what we're specifically going
37 to say to all property owners.

38
39 Alan Soukup,
40 Good morning, Alan Soukup with the Department of Environmental Protection. We did
41 notify all the property owners of the proposed amendment to the Water and Sewer Plan.
42 We actually, because our process kicks in once you all have established a public
43 hearing date, we were able to beef up the notification to include some of the elements
44 that the Planning Commission wanted us to include. We talked about the cost of
45 extending service, we talked about the potential impact of switching from septic to

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sewer on these properties, that it would relieve folks of the necessity to plan a space for their sewage system and, therefore, they could theoretically expand their homes. Again, this is not because of a health problem, per se. This neighborhood is eligible for public sewer service. What we're trying to do is make sure these folks can get a priority for getting service installed when they need it. We did submit a more extensive hearing notice to them.

Councilmember Praisner,
Okay.

Alan Soukup,
And we can provide you all with a copy of this if you want.

Councilmember Praisner,
I would like a copy of that. That would be helpful. Thank you very much.

Councilmember Floreen,
Any other questions on this one? These three?

Council President Leventhal,
No, Howie has another matter that we will get to when we finish the Water and Sewer.

Councilmember Denis,
I'm sorry, Mr. President...

Council President Leventhal,
Let us finish the Water and Sewer, Howie, and we'll take care of you.

Councilmember Floreen,
The next one, there was some disagreement between the players. The first one is an item having to do with Winchester Homes within the town of Poolesville. The Committee recommendation is that this is a project that the town of Poolesville was in support on of and there was some questions as to the details of how this is handled in Poolesville, which caused recommendations of staff to be delayed until that was worked out. But it was we worked out and the final recommendation of the T&E Committee is to concur with the approval of water, and septic/sewer to this area with the understanding that the County and Planning Board staff would work with the town of Poolesville regarding environmental [maintenance] concerns that the Planning Board had identified. There were some community issues here but we felt that this was a jurisdictional issue committed to the town of Poolesville but we encouraged further communication. So that's our recommendation.

Council President Leventhal,
Ms. Praisner has a question.

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1 Councilmember Praisner,
2 Just a question, there have in the past been issues of that water and sewer capacity in
3 the town of Poolesville and its systems capacity. So, are those all resolved? Is that what
4 you're saying or they will be by the time water and sewer is extended to the...

5
6 Alan Soukup,
7 We expect that the town would have resolved the issues to the state's satisfaction.

8
9 Councilmember Praisner,
10 Okay, the state is the driving force on this issue saying yes or no.

11
12 Alan Soukup,
13 Right, before the state tells them they can have the additional taps for these projects.

14
15 Councilmember Praisner,
16 Okay, so nothing will go forward until the state has given approval for the town of
17 Poolesville for it to be able to manage from a system perspective the additional
18 development.

19
20 Alan Soukup,
21 Right, and we maintain contact with the state if we're not sure things are going exactly
22 the way we thought they should be.

23
24 Councilmember Praisner,
25 The extension approval will have the kinds of conditions associated with it. All right,
26 thank you.

27
28 Councilmember Floreen,
29 Next on the agenda is a property in Potomac. As you know, we were required each time
30 to do this to have a peripheral property in Potomac and this is the one we have this
31 time. This is project on Cleveland Drive, [Ms. Abramavic] is the property owner and
32 requested water and sewer for a number of homes on this property, in this location. The
33 County Executive recommended and the Committee agreed that there should only be
34 approval of sewer connection for single hook-up to address the failed septic system and
35 not to support an extension to other properties as this was consistent with the
36 Subregional Potomac Master Plan recommendations. So that is the Committee
37 recommendations.

38
39 Council President Leventhal,
40 There are no questions?

41
42 Councilmember Floreen,
43 And finally, we have Parker Memorial Baptist Church. This is a 8-acre property on
44 Norbeck Road, just west of Layhill Road and this is the church community that has
45 worked for a number of years, as you may appreciate, to find the appropriate location

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1 and they think they finally got one. The Committee recommendation is to approve their
2 request for water and sewer, conditioned upon the Planning Board approval of the
3 preliminary plan that is in conformant with the applicants' preapplication submission. We
4 did not want to get into an issue of imperviousness here, but the information shown on
5 their application is pretty straightforward and they have agreed that that is going to work
6 for them and we would like that to be the standard, rather than setting a precedent of
7 getting imperviousness for every application that comes along.

8
9 Council President Leventhal,
10 Ms. Praisner has a question.

11
12 Councilmember Praisner,
13 I wanted to make sure that the project provides for a widening of Route 28 within the
14 site there as in the proposal and the plan. Because the 28 widening will have a
15 significant impact on parcels along Norbeck Road. And I wanted to make sure that the
16 plan that they preliminarily -- their attorney can nod for me, that would help. So their
17 calculation of their imperviousness and all of the discussion about their plan, which the
18 Planning Board will have to review and approve, incorporates the widening and also
19 appeared to incorporate handling drainage on site? From what I can see, I thought that
20 but I wanted to have confirmation of that. Thank you.

21
22 Alan Soukup,
23 I would add that having driven that road enumerable times, it seems like, 28 is already
24 widened at that point.

25
26 Councilmember Praisner,
27 Yeah, but there might be a slight modification that is needed within the context of the...

28
29 Alan Soukup,
30 The dedication involved is set aside.

31
32 Councilmember Praisner,
33 The dedication is set aside. Okay, thank you.

34
35 Councilmember Floreen,
36 It's for those reasons, Ms. Praisner, we thought it was better to go with what was shown
37 on the plan covering all the bases.

38
39 Councilmember Praisner,
40 Okay, thank you.

41
42 Councilmember Floreen,
43 With that, that's the Committee recommendation.

44
45 Council President Leventhal,

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1 Very good. Mr. Andrews.

2
3 Councilmember Andrews,

4 Thank you, Mr. President, thank the Committee for their thorough consideration. I am
5 going to vote for the resolution, although I would have a different view at this point on
6 one of the properties, the number 5, which I think is a close call, but I am not convinced
7 that it should be approved at this point, but I do support the overall resolution.

8
9 Council President Leventhal,

10 Okay. Those in favor of the Committee's recommendations on Water and Sewer will
11 signify by raising their hands. It's unanimous among those present. Mr. Denis has a
12 point of personal privilege.

13
14 Councilmember Denis,

15 Thank you, Mr. President, I was temporarily out of the room when SAG was voted on
16 and I would like to be recorded in favor of the Committee recommendations.

17
18 Council President Leventhal,

19 Without objection Mr. Denis will be recorded as voting in favor of the Spending
20 Affordability Guidelines. We turn to District Council session. We have -- the PHED
21 Committee acted on the Zoning Text Amendment 05-12: C-2 zone, Special
22 Development Procedure, Chairman Silverman.

23
24 Councilmember Silverman,

25 Thank you, Mr. President. The Committee recommended that ZTA 05-12 disapproved.
26 The committee majority believed that the issues raised in this ZTA should be handled
27 through a limited master plan amendment process. The rest of the packet relates to
28 staff suggestions, which I support as the minority member of the Committee, in the
29 event that the Council is inclined to support the ZTA, because these provisions would
30 narrow substantially the impact so that it does not apply to a significant number of
31 projects that happened to be in the White Flint area. I think the best way to handle this
32 is to see if there is an interest or a substitute motion for the bill, as opposed to the
33 Committee recommendation.

34
35 Council President Leventhal,

36 Thank you, Mr. Chairman, I will be offering such a substitute motion as the original
37 sponsor of the ZTA, but first I'm calling on Ms. Floreen.

38
39 Councilmember Floreen,

40 Thank you. I want to say I am very sympathetic to the application here, but I really think
41 that this is a well-meaning, but I think inappropriate way to go about it. This is a question
42 of changing land use in a location close to the Metro Station. This property should have
43 been zoned differently. And I think transit station kind of zoning would be appropriate
44 here, but I think we need to do it through an appropriate mechanism, and I think the
45 White Flint Metro Station cries out for a creative approach to doing site-specific master

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1 plan amendments that will allow us to revisit the decisions the Council may have made
2 a few years ago that warrant further revisitation under changed circumstances and as
3 other properties get into the game. And I would ask -- I see Mr. Berlage is here -- I
4 would ask, I have already requested, but I would like to reiterate my request that a
5 limited master plan amendment be put into your work program to get that done within a
6 relatively short time period. This is not an issue of community relationships, so much as
7 a question of process and a question of how you do with the appropriate uses at an
8 intense location that is only going to grow. There are a number of budding issues in this
9 area, and we're getting into where, you know, the devil really is in the details in this stuff
10 and we need to go about this in a comprehensive fashion, 'cause otherwise, I think
11 we're going to get a zoning text amendment like this every other week for good
12 objectives, but through a process that doesn't allow us to look at these things
13 comprehensively. The Planning Board recommended that this is, I think, a site
14 appropriate for a text amendment, even the community doesn't disagree, I think, with
15 the basic objectives here, but with the specificity of the changes, adding, creating a
16 whole new kind of use here, which is zoned for something else entirely. It might be the
17 right step to go and I know the County has some roadway issues here that could be
18 satisfied by adoption of the text amendment. I'm tremendously sympathetic towards
19 that, but I have to say that the way to do it, I think, is a different approach than we have
20 before us, and I would urge that we take that -- take another route to achieve more or
21 less the same objective in the appropriate context. There are a lot of properties that are
22 feeling growing pains in this neighborhood. They see the infrastructure needs and
23 really want to get going, and we need them for a variety of reasons. And we need to
24 come up with a better way of doing a limited master plan amendment that doesn't take
25 forever, but can get the property owners and the community interest in the same room,
26 get the stakeholder issues sorted out appropriately, and then move on. So, that's why I
27 don't support this text amendment, though I don't disagree at all with its intent.

28
29 Council President Leventhal,

30 Okay, let me say to Ms. Floreen I share her interest in a White Flint Sector Plan when it
31 can be reasonably accommodated on the Planning Board's crowded schedule. As I
32 mentioned earlier I will be proceeding with a substitute, a complete substitute, for the
33 committee's recommendation. Before I do that, I will call on Ms. Praisner.

34
35 Councilmember Praisner,

36 I want to associate my thoughts with that of my colleague, Ms. Floreen.

37
38 Council President Leventhal,

39 Very good. I'm going to move the substitute and it's the ZTA as revised by staff and it
40 can be found in the packet on Circles 1, Circle 1 through Circle 6-a. It narrows the
41 application of the ZTA and it does address an anomaly in the use of the property. And
42 passage of the ZTA would mean that the County would not have to pay a substantial
43 sum for acquisition of right-of-way for a road that is on the master plan and that the
44 County is now proceeding with. Let me also say again, I think a White Flint Sector Plan
45 is a good idea, you have a number of properties whose zoning dates back many, many

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1 decades, before the erection of Metro. We have a different approach now to density at
2 Metro and mixed use at Metros. This ZTA furthers those objectives and it's true there
3 are other properties at White Flint that would like to be treated in a similar manner, and I
4 on hope the Planning Board can move, you know, reasonably promptly, understanding
5 it has other issues on its plate to move forward with the White Flint Sector Plan, I think
6 it's a good idea and I would support that as well. I move to substitute as outlined by staff
7 and looking for a second.

8
9 Councilmember Silverman,
10 Second.

11
12 Council President Leventhal,
13 All right, Mr. Leventhal has moved and Mr. Silverman has seconded the revised ZTA as
14 a substitute for the Committee's recommendation. Mr. Perez.

15
16 Councilmember Perez,
17 Could you explain, you said it narrows the application of the ZTA. Could either Ralph or
18 someone explain this?

19
20 Ralph Wilson,
21 The section of it as originally introduced affected properties within walking distance of
22 any of the Metro Station Policy Areas. It was narrowed by limiting the eligibility criteria to
23 only properties within a Metro Station Policy Area not within a Central Business District.
24 It would no longer...

25
26 Councilmember Perez,
27 What is the universe of Metro Station Policy Area?

28
29 Ralph Wilson,
30 Two properties in the White Flint area that would be affected by this proposal. It would
31 eliminate from consideration properties in, for example, Bethesda.

32
33 Councilmember Perez,
34 What about the Twinbrook Metro?

35
36 Ralph Wilson,
37 No, it wouldn't affect any in the Twinbrook -- the White Flint.

38
39 Councilmember Perez,
40 The Metro Station Policy Areas not within a Central Business District, that's what this
41 applies to?

42
43 Ralph Wilson,
44 Right.



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1 Councilmember Perez,
2 Twinbrook's not in the Central Business District.

3
4 Unidentified Speaker,
5 But it's the other...

6
7 Ralph Wilson,
8 These are not within a -- there are other criteria, too. It has to be adjacent to properties
9 that are recommended TSM on an approved and adopted master plan.

10
11 Councilmember Silverman,
12 If I may, page -- I guess, are they not page numbered? Page 3. I think it's Page 3,
13 Number 3. Eligible properties is the section this relates to and then there are other
14 restrictions that have been placed on this as well. So, for example, as it was potentially
15 originally drafted like White Flint and Midpike Plaza would not be eligible, based on what
16 the plans are that have been suggested by those folks. In other words, this would be as
17 redrafted.

18
19 Ralph Wilson,
20 It would be.

21
22 Councilmember Silverman,
23 And if it adopted by Mr. Leventhal's substitute, it would not apply to those properties
24 either.

25
26 Ralph Wilson,
27 Yeah.

28
29 Councilmember Perez,
30 I apologize. I have got Baumol Disease. Now I am reading...

31
32 Councilmember Praisner,
33 He's lost.

34
35 [LAUGHTER]

36
37 Ralph Wilson,
38 Maybe, if you look on Circle...

39
40 Councilmember Silverman,
41 They have to be adjacent to... Go ahead, Ralph.

42
43 Councilmember Perez,
44 Is it clear? I'm at -- because Ralph's answer to my question was there is a couple of
45 properties near the White Flint Metro, then I look at page something, would be page 3 if

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1 we were to paginate, and it says there appear to be two eligible properties in the
2 Bethesda CBD and four eligible properties in the White Flint area. Are you -- does this
3 zoning text amendment apply to eligible properties in the Bethesda CBD?

4
5 Ralph Wilson,
6 No, it was narrowed...

7
8 Councilmember Perez,
9 This paragraph is no longer...

10
11 Ralph Wilson,
12 That paragraph reflects the Committee discussion. That was at the point when the
13 Committee addressed the issue based...

14
15 Councilmember Perez,
16 My question now is, and this paragraph doesn't necessarily -- is it clear to all involved
17 that the universe of properties that would be effected by the substitute that has been
18 offered is a universe of two or three areas near the White Flint Metro? Is that abundantly
19 clear to everybody involved?

20
21 Ralph Wilson,
22 It's abundantly clear to staff, I assume everyone else understands it, yeah.

23
24 Councilmember Silverman,
25 It's been significantly narrowed.

26
27 Councilmember Perez,
28 Okay. That was my -- does the Planning Board have a position on the amendment as
29 modified?

30
31 Derick Berlage,
32 The amendment arose in Committee, so it arose after the Planning Board...

33
34 Councilmember Perez,
35 I appreciate it.

36
37 Derick Berlage,
38 I can say that based on the discussion the Planning Board had before that certainly the
39 amendment is a substantial improvement over what was introduced. I think the Planning
40 Board would still prefer the approach that it recommended and, along with everyone
41 else, agrees with the end result. We have an issue with the means that are selected.

42
43 Councilmember Perez,
44 But realistically...

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1 Derick Berlage,
2 What the Committee has recommended is a significant improvement over what we had
3 before us.

4
5 Councilmember Perez,
6 Realistically, assuming that you adapted the approach outlined by Councilmember
7 Floreen, when would you get to it?

8
9 Derick Berlage,
10 We have received that request and take it very seriously, especially...

11
12 Multiple Speakers,
13 [INAUDIBLE]

14
15 Councilmember Perez,
16 You received numerous per week from the Council to do things, so...

17
18 Derick Berlage,
19 What we will be doing is when we bring you our Biannual Report in June, the Planning
20 Board will make a recommendation to you as to whether we think that is indeed a White
21 Flint Master Plan Amendment is appropriate and if so, when we would be able to take it
22 up. We obviously need to weigh that against all the other requests that we have and
23 that is the purpose of the Biannual Report is to tell you what we think the priorities
24 should be and then of course you direct us whether you agree with our priorities or not
25 and we follow your directive.

26
27 Council President Leventhal,
28 How long did Woodmont Sector Plan take from inception to Council passage?

29
30 Derick Berlage,
31 Pardon?

32
33 Council President Leventhal,
34 How much did Woodmont Sector Plan take from inception to Council passage?

35
36 Derick Berlage,
37 About 18 months, maybe a little longer.

38
39 Councilmember Silverman,
40 Actually...

41
42 Councilmember Perez,
43 What is the impact of doing nothing, that is adopting the Committee recommendation?

44
45 Council President Leventhal,

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1 The impact would be that there would be an adverse taking of this road on this property
2 and the property owner would sue for a higher valuation and the County would be out 4
3 to 5 -- or whatever a court decided -- million for the acquisition of the road. The project
4 would remain C-2, C-2 zone, low-rise commercial. Could be redeveloped as C-2. It
5 would be the loss of a housing resource right at the White Flint Metro.

6
7 Councilmember Silverman,

8 Okay. Let me, if I may, let me follow up. I think if I recall the Woodmont Triangle was a
9 little longer, but having set that aside, we're going to take up in June the program of
10 work. And, frankly, the issue of how fast things get done at the Planning Board, I think,
11 is a function of how fast we want them to be done and what resources we're prepared to
12 provide them in order to get things done. Having said, that even when you call
13 something a limited master plan amendment, this limited master plan amendment would
14 not apply just to the area that is the focus of this Zoning Text Amendment. It would
15 literally be and is suggested to be the whole White Flint area. So, I think 18 months is
16 about as optimistic as it could get based on the Woodmont Triangle, which was a very
17 narrow area that took a fair amount of time for something that I think was, frankly, less
18 complicated than this will be. Because of the juxtaposition because it's on Rockville
19 Pike, talking about the right adjacent to Rockville that we have no control over. The
20 decisions that we make would suggest that it's going to be more complicated. I would
21 also highlight on Circles 42 and 43 -- the position of the Department of Works and
22 Transportation, which sort of buttresses what Mr. Leventhal indicated. The Department
23 is looking at a substantial cost savings associated with the right-of-way acquisition, as
24 well as the timeline, as a result of the voluntary dedication. The reality is that sometimes
25 we do things by limited master plan amendments, sometimes we do things by zoning
26 text amendments, it's not magic one way or another. The reality is that there has been
27 substantial opportunity for input, both at the Planning Board and at the Council, and at
28 the Committee work sessions on the issue in terms of public input. Whether there would
29 be additional public input, of course there would be on a master plan amendment that
30 would affect the entire White Flint area, but this is not designed nor would it be
31 applicable to the entire White Flint area. So, sending this off for a limited master plan
32 amendment itself to me doesn't make sense. Sending it off as part of a broader limited
33 master plan amendment means it probably won't be back here for a couple of years and
34 I think we'll end up resulting in substantial financial costs to the County for a roadway
35 that is available for dedication through this process.

36
37 Council President Leventhal,
38 Ms. Floreen.

39
40 Councilmember Floreen,

41 Well, it's true that if we want to delay things we can delay things. If we don't set
42 standards for the production of master plan efforts we will, you know, we will not get the
43 kind of planning that we would like to have occur. But, I just have to say to my
44 colleagues here, if this is an approach to planning that we want to take I am prepared --
45 the message you're sending to every developer in the County is if you want to change

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1 my zoning, triple the density, change the character of that property, come in with a text
2 amendment and this Council will approve it. Because that's what this is. And I think it's
3 really very much out of character with the way we do business here and always have to
4 really rezone a property through a text amendment. There are a variety of properties in
5 the County that have lots of issues and lots of requests and we, we typically, we have
6 traditionally said, "That is interesting, that needs to be vetted, and then we'll hear from
7 the community at large and we'll try to do, deal with this project or this issue that you
8 have identified consistently." If this is the approach and we're concerned about
9 amendments at this point, just wait until tomorrow, folks, because we're going to get 100
10 of these. And we don't need to go through the master planning process in the future. As
11 I said before, I think it's up to us and the Planning Board to devise a mechanism where
12 we can resolve these issues in a way that is a bit more streamlined and doesn't take a
13 couple of years. No question about that. And with the issues with Centers and
14 Boulevards, that the Planning Board has identified as a priority, with the issues of
15 dealing with housing resources that the Planning Board and we have identified as a
16 priority, I really think it's up to us to set a new standard for dealing with these issues in a
17 more comprehensive, yet focused and streamlined approach. But if we can't do that,
18 please don't deliver text amendments on a daily basis because this is what will be
19 required if the Council approves this.

20
21 Council President Leventhal,
22 Mr. Silverman, your light is on.

23
24 Councilmember Silverman,
25 It's just on as Chair.

26
27 Council President Leventhal,
28 The vote is on the substitute motion. Those in favor of the substitute will signify by
29 raising their hands. It is Mr. Knapp, Mr. Perez, myself, Mr. Silverman, and Mr. Denis.
30 Those opposed will signify by raising their hands. Ms. Floreen, Ms. Praisner, Mr.
31 Andrews. The amendment carries 5-3.

32
33 Councilmember Silverman,
34 That's the substitute. Now we need to have a roll call.

35
36 Council President Leventhal,
37 I just said the amendment carries. Right, the substitute carries. We will now have a roll
38 call on the ZTA as amended.

39
40 Council Clerk,
41 Mr. Denis?

42
43 Councilmember Denis,
44 Yes.



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1 Council Clerk,
2 Ms. Floreen?

3
4 Councilmember Floreen,
5 No.

6
7 Council Clerk,
8 Mr. Silverman?

9
10 Councilmember Silverman,
11 Yes.

12
13 Council Clerk,
14 Mr. Knapp?

15
16 Councilmember Knapp,
17 Yes.

18
19 Council Clerk,
20 Mr. Andrews?.

21
22 Councilmember Andrews,
23 No.

24
25 Council Clerk,
26 Mr. Perez?

27
28 Councilmember Perez,
29 Yes.

30
31 Council Clerk,
32 Ms. Praisner?

33
34 Councilmember Praisner,
35 No.

36
37 Council Clerk,
38 Mr. Leventhal?

39
40 Council President Leventhal,
41 Yes. ZTA 05-12 is adopted. We now turn to action on Zoning Text Amendment 06-04:
42 RNC zone - rural open space. Chairman Silverman.

43
44 Councilmember Silverman,

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1 Thank you, Mr. President. PHED recommends unanimously that ZTA 06-04 be
2 approved with amendments as recommended by the Committee. All publicly or privately
3 held land in the rural open space area of the RNC zone must be preserved in perpetuity
4 as rural open space by application of an easement or covenant in a recordable form.
5 We also agree that 10-acre conservancy lots wouldn't be required to be identified and
6 approved and adopted master or sector plan provided the conservancy lot contributes
7 the overall total of rural open space and is a logical extension of existing open space
8 area. This is designed to ensure that when decisions are made involving open space
9 requirements in RNC zones that there is no opportunity for those in affect to be
10 developed. I am short-circuiting, perhaps, a broader discussion about the intent of the
11 legislation, which I can leave to the sponsor. But we unanimously recommended this
12 was the direction to go in and ensure the that rural space, the open space will, in fact,
13 stay in the character. Committee recommendation.

14
15 Council President Leventhal,
16 Okay, there are no comments. We'll go to a role call vote on ZTA 06-04 as
17 recommended by the PHED Committee.

18
19 Council Clerk,
20 Mr. Denis?

21
22 Councilmember Denis,
23 Yes.

24
25 Council Clerk,
26 Ms. Floreen?

27
28 Councilmember Floreen,
29 Yes.

30
31 Council Clerk,
32 Mr. Silverman?

33
34 Councilmember Silverman,
35 Yes.

36
37 Council Clerk,
38 Mr. Knapp?

39
40 Councilmember Knapp,
41 Yes.

42
43 Council Clerk,
44 Mr. Andrews?



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1 Councilmember Andrews,
2 Yes.

3
4 Council Clerk,
5 Mr. Perez?

6
7 Councilmember Perez,
8 Yes.

9
10 Council Clerk,
11 Ms. Praisner?

12
13 Councilmember Praisner,
14 Yes.

15
16 Council Clerk,
17 Mr. Leventhal?

18
19 Council President Leventhal,
20 Yes. The ZTA is adopted unanimously, 8-0. We now have before us introduction of a
21 resolution to approve Crown Farm annexation petition X-182. The PHED Committee
22 has recommended in favor of this, it's being introduced today scheduled for action next
23 Tuesday. Chairman Silverman.

24
25 Councilmember Silverman,
26 Thank you, I normally wouldn't comment at introduction, but I think it's important to
27 clarify some misunderstandings that might be out there in the community regarding
28 what the Planning Housing and Development Committee did. We have received
29 correspondence that seems to suggest that there was not information available to the
30 Committee and I want to make sure that people take a look, at their leisure, Circles 1-3,
31 which is the proposed resolution. The Committee recommendations were very clear in
32 terms of how many dwelling units would be available in the development. And, in fact,
33 the number of residential developments at 2,250 are, in fact, less than what would be
34 approved -- could potentially be approved if this went through the County. The
35 commercial space is higher than through the County, but that is because of the desire to
36 create more of a mixed-use project than an exclusive residential project. The Committee
37 recommendation -- and it's spelled out in the resolution -- is also clear that 12.5% of the
38 residential dwelling units will have to be built under the standards and requirements of
39 the County's Moderate-priced Dwelling Unit Program, our affordable housing program.
40 So if there is some perception that the developer is going to avoid obligations to create
41 affordable housing, that is absolutely not the case. The Committee recommendation is
42 that it be required -- that the developer be required to meet the standards under the
43 County's MPDU ordinance. There are also specific references to transit shuttle bus
44 services and requirements for traffic mitigation plans that will achieve the same
45 objectives of our adequate public facilities ordinance, including participation in the

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1 Greater Shady Grove Transportation Management District. So, again, the potential
2 annexation into the city of Gaithersburg is not going to eliminate an obligation on the
3 part of the developer to meet the adequate public facilities ordinance requirements of
4 the County or the desire that we all have to have a thriving traffic mitigation plan in the
5 Gaithersburg area. The one difference that the Committee had disagreement on had to
6 do with the requirement for purchase of TDRs and, frankly, that's a public policy trade
7 off. If the County -- if the developer were to go through the County, it was clear from all
8 of the testimony, including the Planning Board, that there would be no requirement for a
9 public high school site to be dedicated to the County Public School System. By going
10 through the city that has been offered and is part of the resolution and the belief was
11 that that was a significant contribution ranging from 50 to \$80 million, depending on who
12 is putting the price tag on it, far in excess of what the TDR requirements were. And I
13 wanted to at least take the opportunity to make sure that everybody understood what
14 the Committee had looked at. Finally, there has been some suggestion that there is a
15 need for additional information. If anybody in the public or on the Council is requiring
16 additional information, it would be a good time to raise the specific information that is
17 being requested. Our staff had indicated to us and the Planning Board had reviewed
18 this, this the New Hampshire -- that the information presented to us was sufficient for us
19 to make a decision. So, to the extent that there is some suggestion that we don't have
20 enough information on these points, I think it would be appropriate for those issues to
21 be raised now or as soon as possible. I just wanted to clarify those issues. Thank you,
22 Mr. President.

23
24 Council President Leventhal,
25 Mr. Andrews.

26
27 Councilmember Andrews,
28 Thank you, Mr. President. On my way into work every day, I drive on Sam Eig Highway
29 and go by the Crown Farm. For me the issue is not whether this is an appropriate piece
30 of land to be annexed into the city, I think it is, and I have every confidence that the city
31 would do a good job in administering and the annexation. The question for me is and I
32 think the question for the Council is what are the terms of the annexation? That's where
33 I have a strong disagreement with the recommendation, at least one recommendation of
34 the PHED Committee and that regards the recommendation to the Transferable
35 Development Rights which are used and needed in the County in order to protect the
36 farmland in the Agricultural Reserve. In its communication to us the Planning Board,
37 highlight this as their first issue and it said, "The first issue pertains," this is on page 2 of
38 their letter to President Leventhal, "The first issue pertains to the use of Transferable
39 Development Rights recommended in the 1990 Shade Grove Area Study Master Plan
40 for the west side of the Crown Farm as the optional method for achieving density above
41 the base sum. The annexation petitioner states the zoning fully complies with the
42 recommendations of the master plan but," and this is the key point in their statement,
43 "but does not acknowledge that much of the master plan density is predicated on TDRs.
44 By designating the Crown Farm as a TDR-receiving area, the County Council saw to
45 preserve farmland in the Agricultural Reserve. TDRs are particularly important in this

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case," it says, "because of the large number TDRs assigned to the Crown Farm in the master plan could potentially result in the preservation of one or more farms in the Agricultural Reserve and the injection of over \$11 million in equity." We have received a letter -- the Council received a letter on April 11th from Wade Butler, who is Chairman of the Agricultural Advisory Committee and he writes on behalf of the Committee, as you know the Crown Farm represents the tremendous opportunity for farmers pursuing the sale of their Transferable Development Rights. Since this site is designated as a TDR receiving area with the maximum number totaling 282. Now, parenthetically there is a dispute right now between the developer and the Planning Board about how many TDRs are required. We can come back to that. But the point is TDRs are required if this were developed under the County. "Currently TDRs," the letter says, "are selling for approximately \$40,000 each. This would represent over \$11.2 million in compensation equity to the farmers as a result of the 1980 downzone," and again that assumes the 282 number which is in dispute. "It's evident some members of the County Council need to be reminded of the commitments made to the farmers over 26 years ago, because we still have not created TDR sufficient receiving capacity for those TDRs remaining in the Agricultural Reserve. A decision by the County Council on this annexation petition to reduce the number of TDRs used as part of the Crown Farm will make the imbalance only worse. The farmers have waited long enough for the County to make good on its commitment and the Council recommendation for the developer to make a \$1 million payment in lieu of purchasing TDRs doesn't represent an equitable solution. We strongly encourage the County Council to require the purchase of TDRs as part of the resolution." Now, if TDRs are valued at \$40,000 a piece, and the Planning Board's conclusion is that 188 TDRs are required, and that is as of the letter from Callum Murray of April 10th. If you multiply 188 by \$40,000, it comes out to \$7.5 million dollars that would be required for the developer to purchase the TDRs. The difference between that and the \$1 million payment that's recommended by the PHED Committee for easements of agricultural protection is \$6.5 million. So that \$6.5 million would be transferred from the farmers of Montgomery County in order to preserve farmland to the developer of the Crown Farm. That's a huge difference and a huge public policy decision and a decision under the complete control of the Council. And I think that there is not a justification. I disagree with Mr. Silverman's rationale, because the developer is still -- in fact, the developer is gaining development capacity under this annexation petition, compared to what would be allowed under the County. The developer is receiving approval if the annexation proposed is accepted to develop the same number of housing units and to have a seven-fold increase in the commercial density. And that, those particular numbers are not the issue in my view. The issue is what will be the other terms of the annexation agreement and will the County establish the same terms in this annexation regarding Transferable Development Rights as it would if the County were, if the property were being developed under the County. This is 182-acre property, one of the last remaining large tracks of land in the County that would be developed and we can't afford to see this opportunity be lost to require the purchase of Transferable Development Rights which are essential to protecting the Agricultural Reserve, which everyone up here has talked a lot about and the Council has taken some very significant measures recently to protect. TDRs are a critical component. So, that to me

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1 is a major problem with the PHED Committee recommendation. And any way you
2 calculate it, whether you use the developer's numbers on Transferable Development
3 Rights or the Planning Board's, it's a difference of millions of dollars that would go to the
4 farmers or millions of dollars that would be saved by the developer. And that concerns
5 me greatly and I can't support the annexation if that is not addressed. In terms of
6 additional information, I think we need additional information about the analysis of the
7 transportation mitigation -- the traffic mitigation that would be done. That, to me, has
8 been the information, I think, is most needed that I haven't seen yet, and I think that's
9 what has been short-circuited by the speed of the movement of this annexation
10 resolution through the Planning Board and now through the Committee. And so think we
11 need to see some analysis of how the traffic mitigation will work. And I know that the --
12 that analysis is possible to do, and I think we need to know how the traffic will be
13 mitigated in detail before we vote on this. Traffic is a huge issue in this County and,
14 undoubtedly, this development will contribute additional traffic to the roadways and the
15 congestion will worsen unless there is an effective mitigation done. And I think we need
16 more details on that. So, that's where I think there needs to be additional information,
17 but the TDRs is a huge issue for me. And this Council has the sole authority in this area
18 to make a decision about this, which has a difference of millions of dollars of impact to
19 the farmers of this County.

20
21 Unidentified Speaker,
22 If...

23
24 Council President Leventhal,
25 Well, hold on a moment. It's 10 after 12:00. This resolution is being introduced today. It
26 has been scheduled for debate next week. Rules of procedure are such that I will call on
27 any Councilmember who seeks recognition and there is no time limit unless the Council
28 chooses to impose one. But we do have a proposed closed session that was going take
29 us into lunch, we have a 1:30 public hearing, and a crowded afternoon including
30 Committee meetings on budget this afternoon. I could easily see this debate, which was
31 not scheduled for debate. This is a resolution being introduced today stretching for a
32 couple of hours should Councilmembers choose to do so. I'm only pointing out the time
33 and reminding Councilmembers that we are introducing a resolution that is scheduled
34 for debate next week. The debate was not scheduled today. Having said that and with
35 the hope that all colleagues will exercise restraint, I'm calling on Ms. Praisner.

36
37 Councilmember Praisner,
38 Thank you, I understand that and I am asking for additional information for next week.
39 Number one, I would like a map specifically showing the County property that would
40 continue in existence, the Washington Tower Condominium Community, or whatever
41 that area is, and the exact feet of County land and how it's used after an annexation.
42 Number two, I would like a copy of the Gaithersburg Moderate-priced Dwelling Unit
43 Program, specific document that shows the Moderate-price Dwelling Unit Program for
44 the town of Gaithersburg. Number three, I would like a copy of the, and status of the
45 agreement for annexation between Gaithersburg and the property owner in whatever

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1 form that document now exists and a description from Gaithersburg of the process left
2 after the Council's action as to what specificity -- we don't have a copy of the agreement
3 between Gaithersburg and the property owner. I have seen no written agreement and
4 the community has not had an opportunity to comment on it. Number three, I will be
5 introducing amendments to the resolution next week on Item 9. The existing historic
6 farmhouse and associated log tenant house are preserved and improved. I want to add
7 language and appropriate environmental setting. I think that responds to Historic
8 Preservation Commission comments about not just the buildings but the appropriate
9 settings for the buildings. Number three, Item 3...

10
11 Unidentified Speaker,
12 You said Item three five times.

13
14 Councilmember Praisner,
15 No, I'm sorry, the Item number 3. I'm sorry. Item 3.

16
17 Multiple Speakers,
18 [INAUDIBLE]

19
20 Councilmember Praisner,
21 Okay, Item Number 3 on the action, which deals with the Moderate-priced Dwelling
22 Units. Depending upon the information that is provided to me on the Gaithersburg
23 Moderate Priced Dwelling Unit Program -- and I would like a side-by-side comparison of
24 that program to the County's program -- I may be introducing a amendment to that item
25 that would require that County's Moderate Priced Dwelling Unit Program manage the
26 MPDUs that would be part of this development, whatever that mean. My comments in
27 the Committee were that I was not prepared to vote, not necessarily to oppose this
28 annexation, but that I thought there was significant information given the large parcel
29 that this is that the Committee and the Council needed before we acted. That kind of
30 information that I have requested goes a long way toward responding.

31
32 Council President Leventhal,
33 Okay, there is a lot of lights blinking for a matter that's only being introduced today. Not
34 all Committee members have had a chance to speak yet. I will call on Ms. Floreen
35 followed by Silverman.

36
37 Councilmember Floreen,
38 Thank you, I wanted to make a few clarifications for the record. With respect to the TDR
39 issue, and I think it's important to note for people who raise the question of requiring
40 TDRs in those parts of the County is it's been this Council and it's actually been the
41 PHED Committee that has demanded the addition of the TDR receiving areas already in
42 Shady Grove and In Damascus. That has not been coming from the Planning Board or,
43 frankly, from the Agricultural Advisory Committee. I would like to remind folks of that
44 fact. We're the ones who added receiving areas recently. Not anyone else. Number two,
45 I think it's also important to understand that there is a significant disagreement about the

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1 TDR calculation for this property. There is a higher number that Mr. Andrews has
2 described, there is also a lower number, maximum dollar amount at \$40,000 per TDR,
3 about \$3.7 million. So there is a wide range of disagreement as to the value issue
4 associated with the TDRs. And finally, the real issue is the school site. If we want to
5 acquire 30 to 35 acres of prime school land in the middle of the County where we
6 actually need it, I encourage folks to locate an alternative parcel of free land. Otherwise,
7 we're looking at a, lord knows how much, \$30 million to \$60 million price range,
8 because where this school site is located is the part of the Crown Farm where the
9 County, as I recall, included the most density and that would affect the valuation of that
10 property. That would affect the price that the Council, or the County would have to pay
11 for the land. So, that is part of the weighing process. A \$30 million school site versus
12 giving up several hundred, several million dollars in TDRs. Do the math, the County
13 comes out ahead at least by \$25 million or more. That is the question for this Council
14 and that is part of the policy issue. And I think those facts need to be part of any
15 conversation that we have next week. Thanks.

16
17 Council President Leventhal,
18 Okay, Chairman Silverman followed by Mr. Knapp.

19
20 Councilmember Silverman,
21 Just brief -- thank you, Mr. President. Just briefly in response to Mr. Andrews' request, I
22 don't know -- the process in an annexation is we pass a resolution that creates
23 obligations for this, whatever the city is to do. In this case, the traffic -- the resolution is
24 very clear about what traffic mitigation plan is required. If Mr. Andrews is asking for
25 traffic plans, I would suggest that we get provided whatever information we have at this
26 point, but my understanding is that the actual traffic mitigation plans would be
27 developed through the city approval processes, isn't that right, Fred, if I can ask. I am
28 trying to figure out what you're requesting can actually be provided at this point in the
29 process.

30
31 Fred Felton,
32 That's correct, Chairman Silverman. We do -- we're following the County's local area
33 review process. It's a lengthy review and we have received modifications to the traffic
34 study today. At this point, the full mitigation requirements are not exactly clear but we're
35 getting closer and working closely with the Planning Board staff.

36
37 Councilmember Silverman,
38 I mean the ultimate safeguard in any resolution we pass with conditions is if the city
39 doesn't meet the obligations then the County basically withdraws its support. That
40 essentially would legally tie the project up for indefinite period of time, but I don't -- this, I
41 think, is where we are in this point as far as traffic mitigation plans is comparable to
42 what we do on a rezoning where we say we're rezoning the property but, ultimately, the
43 Planning Board will have to follow our Adequate Public Facilities Ordinance in fleshing
44 out the specifics of what traffic mitigation plans are going actually have to be
45 implemented. I think the point of the resolution is to ensure that the absence of an

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1 Adequate Public Facilities Ordinance in the city of Gaithersburg is not going to let the
2 developer off the hook for complying with what the requirements are in the County.
3 Whatever they have to do in the County, they're going to have to do in the city.

4
5 Councilmember Perez,
6 Is that true with affordable housing then, as well?

7
8 Councilmember Silverman,
9 That is what the specific intent is of the language that is Paragraph 3 -- Item 3 on Circle
10 2 of the action, which is they would be required to do MPDUs under the County, the
11 absence of an MPDU -- formal MPDU program in Gaithersburg won't let them off the
12 hook. They'll be required to provide 12.5% of residential units and they'd have to be built
13 under the standards and requirements of our ordinance. Where that...

14
15 Councilmember Perez,
16 Or else.

17
18 Multiple Speakers,
19 [INAUDIBLE]

20
21 Councilmember Silverman,
22 Or else again, the Council's ability is to withdraw its approval, thus creating a project
23 that will legally not be able to go forward because no one will be -- there will be no
24 financing available for it while there would be a dispute between the County and the
25 city.

26
27 Councilmember Andrews,
28 Your explanation is helpful. I understand that the principle is that the annexation
29 development would need to meet the requirements that it would need to meet under the
30 County. What I would like more information about is what are some of the actual traffic
31 improvements -- would that result in and you may not have a complete list at this point
32 but there has been some discussion about what some of those changes would be.

33
34 Multiple Speakers,
35 [INAUDIBLE]

36
37 Councilmember Silverman,
38 Okay, great. Thank you.

39
40 Council President Leventhal,
41 Mr. Knapp.

42
43 Councilmember Knapp,
44 Just a couple actual points of information. Relative to Ms. Praisner's request as to the
45 side-by-side comparison of the County's and the city's MPDU program, if it would be

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1 required to use the County's program, what would be required for from an agreement
2 perspective between the County and city to do that. I don't know what kind of a
3 agreement we would need between them or agreement to be put in place to make that
4 happen. As it relates to the TDR issue, I would like to, if we could, get some definitive
5 clarification, as to what is the number of TDRs required. Because even looking at the
6 packet it's very much in question. I would like to think our current policy could get us an
7 answer to that question. Also what are the number of remaining TDRs that exist and
8 what are the number of TDR receiving areas that we currently have in the County? And
9 then finally, to Mr. Silverman's point, the Council would, if for some reape average the
10 elements are laid out here are not adhered to, the Council could withdraw its support or
11 withdraw the resolution. What would be the process by which we would have that
12 review of whatever the agreement would be and how that would occur. Thanks.

13
14 Council President Leventhal,

15 Okay, so, the resolution is introduced. We now have -- I am going to entertain a motion
16 to go into closed session and the Council Vice President, as the maker of the motion
17 could please read the terms under Maryland state law under which we're going into
18 closed session.

19
20 Councilmember Praisner,

21 Sure, pursuant to Maryland Code, state government article 10508(a)(1)(i), the topic is
22 Planning Board Chair appointment, I assume.

23
24 Council President Leventhal,

25 So Ms. Praisner made the motion, the Council President will second the motion. We will
26 give Councilmembers time to grab a sandwich and eat during the closed session. My
27 expectation is that we will begin the closed session at 12:45 p.m. and begin the public
28 hearing at 1:45. We need a vote. Yeah, vote to go into closed session. Those in favor
29 will signify by raising their hands. It's unanimous among those present.

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1 Council President Leventhal,
2 Good afternoon, ladies and gentlemen. We are on Agenda Item 18, this is a public
3 hearing on Bill 5-06. Compensation - Elected Officials, which would modify the
4 compensation of the County Executive, County Sheriff and State's Attorney, make
5 technical changes, and generally amend the law relating to compensation of elected
6 officials. Action is tentatively scheduled for May 2nd. Anyone who wants to submit
7 additional material for the Council's consideration should do so before the close of
8 business on Friday, April 21st. There are no speakers.

9
10 Councilmember Praisner,
11 Me, me -- I need to...

12
13 Council President Leventhal,
14 Mrs. Praisner.

15
16 Councilmember Praisner,
17 Two things: One; this is the bill I wanted to comment on this morning. Out of breath, Mr.
18 Leventhal, me, too. One, I had raised when the bill was introduced the cycle for
19 evaluating the CPI year-over-year. Other things where we have to do this may use other
20 months, not September. I wondered if we could look within the Committee conversation
21 about that, as to whether September is the right month, since we have to calculate it, I
22 think, year-over-year in November for other purposes and whether that's helpful.
23 Understanding that may be a problem because compensation has to change on that
24 first Monday of December, I think. Secondly, I was called by a member of the
25 Committee that made these recommendations to study compensation and I was told
26 that there is an error in the report. And if you could check that out before the Committee,
27 I'd appreciate that, Kathleen. The issue relates to -- well, it may not be in the report, but
28 it's in the bill, then. The committee recommended, I am told, that the County Executive's
29 salary be a fixed salary, not adjusted by inflation on the annual cycle. And page 10 of
30 the report is specific and says that, yet I think in the summary it makes another
31 reference to the -- summary of the recommendations on page 6 says that the
32 Executive's should vary by inflation on that term. Or it says "in lieu of any CPI
33 adjustments," but I think the bill includes the County Executive's CPI adjustments. So, in
34 order to conform to -- and I think what the Council President was introducing, was the
35 committee's recommendations. We have to fix that so that the County Executive's is a
36 flat rate, not a -- flat increase that stays constant and is not adjusted by inflation. Thank
37 you.

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1
2 Council President Leventhal,
3 Thank you, that concludes Agenda Item 18. We're now on Agenda Item 19. This is a
4 public hearing on the Planning Board Final Draft Amendment to the Master Plan for
5 Historic Preservation of Higgins Tavern at 16800 Georgia Avenue in Olney. A Planning,
6 Housing, and Economic Development Committee work session is tentatively scheduled
7 for April 28th at 9:30 a.m. Anyone who wants to submit additional material for the
8 Council's consideration should do so before the close of business on Thursday, April
9 20th. We have five witnesses on the witness list. Clare Kelly from the Planning Board;
10 Warren Fleming, representing the Historic Preservation Commission; -- Come on up as
11 I call your names, please -- Mart Anne Barnes, representing the Higgins Cemetery
12 Association; Leonard Becraft, speaking on his own behalf; and Wayne Goldstein,
13 representing Montgomery Preservation, Inc. Clare Kelly, go ahead. State your name for
14 the record, please.

15
16 Clare Kelly,
17 For the report, I'm Clare Kelly, Historic Preservation planner and staff to the
18 Montgomery County Planning Board. I'm here today to present the Planning Board's
19 recommendations on the amendment before you. This nomination was reviewed by the
20 Planning Board in 1994. And the Board, at that time, supported designation. However,
21 the then-owner requested that the decision on historic designation be delayed until
22 plans for the commercial center contemplated on the site were approved. The Board
23 agreed to the request and entered into a consent agreement with the owner and the
24 Historic Preservation Commission. You have a copy of the Consent Agreement before
25 you. There is really no question that the Higgins Tavern site is an important part of the
26 County's heritage. The history of this site is well-documented in the 1994 nomination,
27 and the argument for designation was convincing to both the Planning Board and the
28 HPC. The Board fully agreed with the criteria and rationale cited by the commission in
29 the recommendations. The recommended environmental setting is about a half-acre, as
30 shown in the amendment. The complicating factors on this nomination have been the
31 planning issues associated with the site. In 1991, the then-owner went through the
32 subdivision process, recorded the lot and dedicated right-of-way for Georgia Avenue
33 improvements. During the recent Olney Master Plan Amendment, there was a great
34 deal of discussion about the use and development of this property with the ultimate
35 decision being that it would retain its commercial zoning. More recently, the current
36 owner has gone through the development review process and has received building
37 permits for a commercial center from the Department of Permitting Services. The
38 current owner now ready is begin constructing the commercial center and rehabilitating
39 the Higgins Tavern building according to the consent agreement. During the Executive's
40 review of the Final Draft Amendment, DPWT staff have expressed concern about the
41 potential impact of the setting on 150-foot master plan right-of-way for Georgia Avenue.
42 This 150-foot right-of-way has been mapped by Park and Planning Transportation Staff
43 and a map of that is -- has been passed out to you. The Higgins Tavern property did
44 dedicate right-of-way during the subdivision process in 1991. Thus, the edge of the
45 environmental setting, which is the property line bordering on Georgia Avenue, is in

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1 alignment with the properties to the north and to the south. The 150-foot right-of-way for
2 Georgia Avenue extends to the east and may eventually require dedication or
3 acquisition of land from parcels on the east side of Georgia Avenue. Since the Higgins
4 Tavern property has gone through subdivision and already dedicated right-of-way, we
5 did not reveal the environmental setting which follows the lot line on the east will be in
6 conflict with the eventual right-of-way for Georgia Avenue. Thank you for the opportunity
7 to present this testimony.

8
9 Council President Leventhal,
10 Thank you. Mr. Fleming.

11
12 Warren Fleming,

13 Good afternoon, I'm Warren Fleming and I'm a member of the Historic Preservation
14 Commission. I am pleased to appear today to present the HPC recommendation of the
15 designation of the Higgins Tavern to Montgomery County Master Plan for Historic
16 Preservation. The Commission reviewed and recommended the Higgins Tavern for
17 historic designation a number of years ago and none of the current Commissioners
18 were on the HPC at the time. However we strongly concur with our predecessors'
19 recommendation on this site. The Historic Preservation Commission recommends in
20 favor of designating the Higgins Tavern on the Master Plan for Historic Preservation.
21 Higgins Tavern is a rare example of the kind of commercial building that was once at
22 the heart of Montgomery County communities. The original 1820 log cabin still stands. It
23 was enlarged in the late 1800s with a frame addition. Higgins Tavern has both historic
24 and architectural significance, meeting criteria 1(a), 1(d), and 2(a) of the preservation
25 ordinance. Higgins Tavern has been listed on the locational atlas and inventory of
26 historical sites since 1976. In 1994, the owner filed a demolition permit application on
27 this property. The HPC evaluated the resource and unanimously recommended it for
28 designation on the County's Master Plan for Historic Preservation. This nomination was
29 sent on to the Planning Board and the Board also recommended the favor of this
30 historic designation. At this point the applicants requested a postponement of the
31 designation process until a development plan for the site was approved. A Consent
32 Agreement was signed in 1995 by the owners, and the HPC, and Planning Board and it
33 outlined the sequence of events of the rehabilitation of the tavern. The construction of
34 the adjacent new commercial development and the completion of the designation
35 process of the historic resource. Under the terms of this agreement the HPC held a
36 preliminary consultation in January, 2006, on the proposal by the current owners to
37 restore the historic building to the 1870s era and remove non-historic additions. The
38 building will remain at this current location and the land behind it has already been
39 approved for construction of a small commercial shopping center. The proposed use for
40 this tavern building would be compatible small business such as a professional office.
41 The Commission has supported the current owner's plan for the Higgins Tavern and
42 offered general positive comments at the preliminary consultation. The historic
43 designation of the Higgins Tavern is moving forward at this time because the Consent
44 Agreement states that the owner may not occupy any of the commercial development
45 until at least 75% of the rehabilitation of the tavern has been completed. and

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1 rehabilitation needs to be approved through the Historic Era Work Permit process. It is
2 important to all parties to complete the historic designation and work on the
3 rehabilitation of this very significant part of the County's history.

4
5 [BEEPING]

6
7 Warren Fleming,

8 In conclusion, the Commission wholeheartedly supports designation of Higgins Tavern
9 as it represents an internal part of the fabric of our County's historic. Thank you.

10
11 Council President Leventhal,

12 Great, thank you very much, Mr. Fleming. Mary Anne Barnes.

13
14 Mary Anne Barnes,

15 I'm Mary Anne Barnes [INAUDIBLE] also I'm here as the Vice President of the Higgins
16 Cemetery Historic Preservation Association of Rockville, Maryland. This is a nonprofit
17 tax designated 501 [INAUDIBLE] cemetery incorporated in Maryland. We are dedicated
18 to the preservation and restoration of the James Higgins family cemetery located at
19 5700 Arundel Avenue, Rockville. This is one of the few existing gravesites of a local
20 Montgomery County American Revolutionary War Soldier. When the Higgins Tavern
21 was used in 1820, we need to stop and remember that our own Montgomery County
22 was only 42 years young. That its owner, [INAUDIBLE] Higgins was the son of a
23 recognized local American Revolutionary War soldier. His father, James Higgins, was a
24 prominent land and slave owner who lived on his home tract on the Rockville Pike and
25 [INAUDIBLE] and Rock Creek. This is the site of the cemetery. On behalf of our
26 organization we can connect the stated gravesite and former home tract of James
27 Higgins, born 1733, he died January 18th, 1862. The property presented here today
28 known as Higgins Tavern. At the time of his death, his last will and testament, Higgins
29 conveyed a 200-acre tract known as the [INAUDIBLE] and the second tract
30 [INAUDIBLE].

31
32 Unidentified Speaker,

33 The microphone's not on.

34
35 Council President Leventhal,

36 Oh, I'm sorry, we need you to press the button in front of your microphone.

37
38 Mary Anne Barnes,

39 Oh, I'm so sorry. I didn't know.

40
41 Council President Leventhal,

42 I'm sorry too, but just proceed.

43
44 Mary Anne Barnes,

45 Is it all lost? Could anybody hear...

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Council President Leventhal,
No, it's not lost, I don't believe. Yeah, it's on tape. Okay. Please proceed.

Mary Anne Barnes,
Okay, I apologize to everyone. A third tract conveyed in his will comprises much The Knowles family married into the Higgins. This includes the train station, Antique Road, Knowles Avenue, and residential area, Owens Ordinary, [Dowdens] Ordinary, James Suter's Tavern, and Hunger Tavern are all gone forever. This old Higgins Tavern is a rare relic of a past era of local history providing a glimpse into the early economic commercial industry of horse travel, food, and overnight accommodations, as well as then a gathering place. We recommend from our cemetery group that it be authentically restored to the days of its early use. It will become a historical educational asset to our County. The first federal census was in 1790, our local census here then listed both James Higgins and his son Benjamin, who was the first owner of this land from his father. Our County was only 14 years old. I therefore recommend that Higgins Tavern be designated as a site on the Montgomery County Master Plan For Historic Preservation. Thank you for letting me come.

Council President Leventhal,
Thank you for being here. We appreciate it. Mr. Becraft.

Leonard Nash Becraft,
I'm Leonard Allen Nash Becraft, 801 Greenbridge Road, Brookville, Maryland. I'm an eighth generation there with the Becraft family coming into Londontown near Annapolis in 1673. We've been in Maryland all these years. I'm here to try to preserve the Higgins Tavern that a relative of mine, Lurainer Becraft, was married to James Higgins and provided 12 children to him. And the situation of the tavern in the relative state. Benjamin Becraft, Senior, was born in 1710, came down from Frederick County in the 1740s. Developed 600 acres there's in Kensington area, and donated 200 acres of it to the Higgins Family. The Brookville Turnpike goes past this cabin and I'm in a bit of disagreement with the Historic Preservation Commission, because they consider it only valid from 1820 to 1880. I've brought Greenwood and I've passed the packets to you, hopefully you've had a chance to read them. This is land 5 miles north of this that was back in 1720 and the homestead is still standing there, a historic site. It was a main roadway from Georgetown north to Brookville, to Cooksville on to Baltimore and Philadelphia. The Davis Family had a plantation north of Brookfield that had 1,500 acres in the Allen Bowie Davis and Thomas Davis' were delegates to Annapolis. The community there with the tavern was Oakdale and Emory Church is still existing on 97. It's a community in itself north of 28. They had slaves there: Dick Powell, the gardener; Wilson Johnson; and so forth. The Higgins Tavern in 1776 is under 23105. Stagecoaches went by, they stopped there, there was a tollhouse and Brookville Turnpike was constructed by Allen Bowie Davis in the 1840s. It was 100 years before that this plantation existed and knowing the details behind of it that is the important part. It also had a dairy farm like King Farm and 355, Martin Dairy, from 1926, where the

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1 Martin family raised 7 children in this building. The stagecoach route went through to
2 Baltimore. In 1794, the Whiskey Rebellion, Thomas Davis from Greenwood served with
3 going to western Pennsylvania to put down the rebellion. Brookville Academy was north
4 of it, and most of you are here from Rockville and consider 355, but we consider 97 as a
5 primary route north. President James Madison in 1814, they burned the capital and he
6 fled with his wife Dolly, securing the portrait of George Washington, stayed there in
7 Brookville using this same route there. The Brookville Turnpike -- Allen Bowie Davis
8 was in charge of that, plus building the C&O Canal. He was there in 1856 with a 150-
9 year part of the University of Maryland, tried to get it in Brookville, there with 100 acres
10 he was donating, but it was turned over by the railroad at College Park. Civil War: we
11 had 150 wagons captured by Jeb Stuart that came from Rockville. The mayor went by
12 this tavern, the important part of this, it's a well and water park that served the ones
13 traveling north that were at that point. Jeb Stuart captured these wagons and he was
14 delayed as far as going to Pennsylvania and the Gettysburg part.

15
16 [BEEPING]

17
18 Leonard Nash Becraft,

19 The situation with the Sandy Spring Museum and slave park we've worked on years ago
20 is important and also future generations for tourist information, a half-acre site that's
21 presentable to the ones coming out to this Intercounty Connector. The last log cabin on
22 97 and once they tear into it, it's like tearing half of Mount Vernon down, that the
23 situation there, that's -- by historic preservation offering to just keep two parts of it. The
24 pictures there with the sloping back roofs on it, from the reverse side that you don't see,
25 there's three foot drop at least from 97 to the front of it. So drainage and widening of 97
26 I wasn't familiar with.

27
28 Council President Leventhal,

29 Mr. Becraft, I need you to wrap up, your time has expired.

30
31 Leonard Nash Becraft,

32 It's like putting the fox in charge of the chicken house, with the new owners there and
33 the half-acre part of it there. Once it started tearing into it, no one can tell, and hope it
34 will not be torched like the Olney Inn and Fairhill that was in Olney, with other shopping
35 centers that were created.

36
37 Council President Leventhal,

38 Thank you very much for your testimony. Very helpful. Wayne Goldstein.

39
40 Wayne Goldstein,

41 I'm Wayne Goldstein with Montgomery Preservation Inc. I'd like to commend the
42 developer Mark Solomon for being so cooperative in completing the historic designation
43 aspect of this, and I'm confident that between him and the Historic Preservation
44 Commission we'll come up with an appropriate reuse of the tavern as well as saving the
45 important historic parts of it. I support -- MPI supports the recommendations of the

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1 Historic Preservation and the Planning Board and looks forward to the designation so
2 that the builder can begin the work and can benefit from the local and perhaps state
3 historic tax credits that will help him with the cost. I now have much more to add about
4 the history. I'm glad that part of the controversy is how historic this is, how far back it
5 goes. Clearly it's an important site. I'm also signed up to talk about the Red Brick
6 Courthouse so I'll segue right into that by quoting from the Judicial Center website. It
7 says, "History of the courthouse: for most of Montgomery County's history a single
8 building, familiarly known as "The Courthouse" served all functions of local government.
9 The red brick courthouse is the County's third on this site constructed in 1891. The red
10 brick courthouse reflects the image and aspirations of rural Montgomery County in
11 1891. The County's 27,000 plus residents visited the Richardsonian, Romanesque style
12 courthouse as litigants and jurors to pay taxes, buy dog tags, probate wills, obtain
13 marriage and business licenses, and request law enforcement from the sheriff. The
14 courthouse changed with the times in use as well as appearance. The red brick
15 courthouse ended up housing smaller offices in lesser courts, the grand courtroom was
16 divided for smaller spaces, the vaulted ceiling dropped to conserve heat, and the
17 stained glass covered with plywood. In the 1960s the Council allocated funds to
18 demolish the courthouse, but citizens protested. When the Judicial Center opened in
19 1982, the old courthouse closed with an uncertain future. Peerless Rockville a
20 nonhistoric preservation group worked with Montgomery County to document the history
21 of the courthouse. When the County began renovations in 1990, Peerless formed
22 Friends of the Red Brick Courthouse to raise funds to restore the grand courtroom to its
23 1891 appearance. Friends held auctions and Victorian balls, sold posters and dog tag
24 jewelry and celebrated the centennial. Private donations and public funds removed the
25 unsympathetic alterations and restored original materials; work was completed in 1995.
26 The grand courtroom returned to use with the circuit court trial in 1996. The Red Brick
27 Courthouse was listed on the National Register of Historic Places in 1986 and
28 designated in the City of Rockville Historic District in 1979. An exterior and partial
29 interior easement is held by the Maryland Historic Trust. That's basically the argument
30 as to why the County should support the additional funding to do further renovations
31 and improvements of the courthouse. Now that it is once again becoming a full-time
32 courthouse. And to take care of the -- adding -- modernizing the judicial needs while
33 protecting and enhancing the existing historic fabric, both exterior and interior. I'd also
34 like as one final note on another matter, to point out to Councilmember Praisner that the
35 Historic Preservation Commission submitted a detailed letter and I hope she'll take that
36 into consideration in her amendment. Thank you.

37
38 Council President Leventhal,

39 That concludes this group, there are no questions, we appreciate your testimony very
40 much.

41
42 Leonard Nash Becraft,

43 I have 12 pictures over there on the wall [INAUDIBLE].

44
45 Council President Leventhal,

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1 Okay, Mr. Becraft, this hearing will only last another 15, 20 minutes, so if you can leave
2 the pictures there, then Councilmembers can review the pictures after the hearing's
3 over. Thank you to all witnesses, we appreciate it. Agenda Item Number 20 is a public
4 hearing on a supplemental appropriation to the FY '06 Operating Budget of the
5 Department of Public Works and Transportation for a custodial contract for County
6 facilities in the amount of \$720,000. A Transportation and Environment Committee work
7 session is tentatively scheduled for April 27th at 10:00 a.m. Persons who wish to submit
8 additional material for the Council to consider should do so before the close of business
9 on Wednesday, April 19th. There are no witnesses for this hearing. Agenda Item 21 is a
10 public hearing on a supplemental appropriation to the FY '06 Operating Budget of the
11 Department of Public Works and Transportation for the Division of Transit Services in
12 the amount of \$4,163,830 dollars. A Transportation and Environment Committee work
13 session is tentatively scheduled for April 20th at 9:30 in the morning. Anyone who wants
14 to submit additional material for the Council to consider should do so by the close of the
15 hearing, there are no witnesses for this hearing. Agenda Item 22 is a public hearing on
16 a supplemental appropriation to the FY '06 Operating Budget of the Department of
17 Health and Human Services for the Shelter Services Program in the amount of
18 \$181,640. Action is tentatively scheduled for April 25th. Anyone who wants to submit
19 additional material to the Council to consider should do so by the close of the hearing.
20 There are no witnesses on Agenda Item 22. Agenda Item 23 is a public hearing on a
21 resolution to approve the National Capital Region Mutual Aid Agreement, which would
22 authorize the County to enter into a mutual aid agreement between federal, state, and
23 local governments in the National Capital Region for law enforcement, fire, rescue,
24 emergency health and medical services, transportation, communications, public works
25 and engineering, mass care and resource support in an emergency or public services
26 event. Preparing for mitigating, managing, responding to or recorning from any
27 emergency or public service event and training for any of the above activities. Action is
28 scheduled following the hearing. Is Chuck Thompson here? Chuck Thompson and
29 Gordon Aoyagi are here to speak to this agenda item. Mr. Thompson, please press the
30 button, introduce yourself, and begin.

31
32 Charles Thompson,
33 Just very briefly...

34
35 Councilmember Praisner,
36 You have to introduce yourself for the viewers.

37
38 Charles Thompson,
39 I'm sorry, Charles Thompson, County Attorney for Montgomery County. Very briefly,
40 we're here in support of this proposal for a mutual aid agreement with our fellow C.O.G.
41 members. We've been very active in trying to put this together over the past several
42 years. The law has for the most part prohibited us from having an effective mutual aid
43 agreement with other jurisdictions because of some of the constraints that have been
44 placed on us. We did get federal legislation that allowed us to enter into mutual aid
45 agreements that provide, in effect, that our officers who go across jurisdictional lines will

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1 be held accountable for their actions, only in this state and under our laws. Similarly the
2 same would be true for people who participate in these events coming from other
3 states. So we do urge your support and if you have any questions, that's the main
4 reason I'm here.

5
6 Council President Leventhal,
7 Ms. Praisner.

8
9 Councilmember Praisner,
10 I want to be clear, does this apply for park police officers.

11
12 Charles Thompson,
13 If park police officers joined the agreement, it could, yes.

14
15
16 Councilmember Praisner,
17 Okay, thank you.

18
19 Council President Leventhal,
20 Mr. Knapp.

21
22 Councilmember Knapp,
23 I want to thank the efforts, Chuck has been deeply involved in this. This was a long
24 process through C.O.G., trying to get everybody put together. This lays the foundation
25 for local jurisdictions working together. If we've learned anything over the course of the
26 last year, and looking at the impacts of the various hurricanes, it's the difficulty of going
27 up and down the government ladder. But the ability for local jurisdictions to aid one
28 another I think is going to be probably the way we're going to address most of the
29 problems that will impact this region, if you have a significant incident. This agreement
30 puts in place the ability for that to happen in a relatively seamless way and for all of our
31 local governments to have the assurance that the right safeguards are in place and the
32 right mechanisms to reimburse people as well. I want to thank you guys for your efforts
33 because I think it's a significant step forward for the region. Thank you.

34
35 Council President Leventhal,
36 Okay. There are no further questions, the resolution approving the mutual aid
37 agreement is now before the Council. Those in favor of its adoption will signify by
38 raising their hands. It is unanimous among those present. I should note that Mr. Subin is
39 absent on Council business. Thank you, thank you both. Agenda item 24 is a public
40 hearing on a special appropriation to the FY '06 Operating Budget to the Department of
41 Health and Human Services for the Maternity Partnership Program in the amount of
42 \$700,940 dollars. The Health and Human Services Committee recommends approval of
43 this appropriation which continues a program which provides prenatal care to poor,
44 pregnant women. And this is a continuation of a longstanding partnership between
45 Montgomery County and Holy Cross Hospital. We're looking forward to having the

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1 Adventist Healthcare System also participate in the program in the near future. There
2 are no witnesses for this public hearing, the special appropriation as recommended by
3 the HHS committee is now before the County Council. Those in favor of the special
4 appropriation -- Mr. Andrews? Mr. Andrews?

5
6 Councilmember Andrews,
7 He had a question.

8
9 Council President Leventhal,
10 We're about to vote -- oh, Mr. Knapp has a question.

11
12 Councilmember Knapp,
13 How many additional people does this \$700,000 serve?

14
15 Council President Leventhal,
16 Ms. Planell.

17
18 Joan Planell,
19 422.

20
21 Councilmember Knapp,
22 422 brings a total of how many?

23
24 Joan Planell,
25 The total is 2,200.

26
27 Councilmember Knapp,
28 Okay, and so has this number been taken into account as we've looked at the
29 budget? Has the County Executive taken this into account as we look at the next year?

30
31 Joan Planell,
32 We're going to look at that when we take up public health, he's not recommended
33 funding at the total number. We'll discuss that in the HHS Committee session.

34
35 Council President Leventhal,
36 We've had this same conversation every year. And the Committee and the Council have
37 agreed to provide additional funds every year. So the special appropriation as
38 recommended by the HHS Committee is before the Council. Those in favor will signify
39 by raising their hands. It is unanimous among those present. Agenda Item 25, is a
40 public hearing on a supplemental appropriation to the FY '06 Operating Budget to the
41 Office of the Sheriff for the Courtroom Courthouse Security and Transport Program in
42 the amount of \$627,320. Action is scheduled immediately. There are no witnesses for
43 this hearing. The Public Safety Committee has a recommendation, Chairman Andrews?

44
45 Councilmember Andrews,

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1 The Public Safety Committee recommends approval of the special appropriation --
2 supplemental appropriation. And we met two weeks ago, I think, reviewed the
3 measures, found them to be reasonable, and that there was no reason at this point to
4 wait further in order to approve them. So the Committee unanimously recommends
5 approval.

6
7 Linda McMillan,

8 On this particular one, the Committee also recommended that the \$142,000 which was
9 for the Red Brick Courthouse maintenance be appropriated directly to DPWT. The
10 original transmittal had it all going into the Sheriff's Office, but the Sheriff's Office would
11 be providing it to DPWT to do the work. It's the same total amount but it would be split
12 between the Sheriff and DPWT.

13
14 Councilmember Andrews,
15 That's correct.

16
17 Council President Leventhal,
18 Ms. Praisner.

19
20 Councilmember Praisner,
21 I had a question and I wasn't sure -- I know this relates to the additional judges, but we
22 do have the capacity, I think -- I wanted to make sure I understood and we were
23 recording separately as the Council had required all of the costs associated with
24 security, et cetera, for the sniper trials. And wondered if the Sheriff has any calculations
25 on how much its costing so far.

26
27 Unidentified Speaker,
28 We're keeping track of it but I wasn't prepared...

29
30 Councilmember Praisner,
31 Okay, I just wanted to use the occasion of having both of you here to make sure that all
32 of those -- all of the agencies -- State's Attorney, Sheriff, Courts -- are keeping track --
33 and whomever else -- keeping track separately because that's the requirement of the
34 Council as of last year. keeping track separately of the costs associated with the sniper
35 trial, because as I recall, the state's attorney told us there would be no additional costs.

36
37 Sheriff Ray Kight,
38 Ms. Praisner, we have the...

39
40 Council President Leventhal,
41 Sheriff, if you're going to address us you need to come up to the microphone and
42 introduce yourself.

43
44 Councilmember Praisner,

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1 I'm just taking advantage of your being here, Ray, I apologize. It's always a pleasure to
2 see you.

3
4 Sheriff Ray Kight,
5 Sheriff Ray Kight, and we have been keeping track of the costs since day one, when we
6 moved the prisoners into Montgomery County, and we'll continue to do that. And we'll
7 get an update to you...

8
9 Councilmember Praisner,
10 And the Public Safety Committee and the full Council? And that's true for the other
11 departments as well, I would assume?

12
13 Councilmember Andrews,
14 It's definitely true for Corrections.

15
16 Councilmember Praisner,
17 Thank you. That's right, Corrections was a department I had forgotten. We had an
18 estimate -- \$200,000 was the estimate for Corrections for last year. Okay, so when we
19 get the overview or when we deal with this in the Operating Budget, we'll have a sense?
20 Thank you. I apologize.

21
22 Council President Leventhal,
23 No need to apologize. Thank you, Sheriff. The Public Safety Committee's
24 recommendation in favor of the supplemental appropriation for the Office of the Sheriff
25 is now before the Council. Those in favor will signify by raising their hands. And that is
26 unanimous among those present, the supplemental appropriation is approved. Agenda
27 item 26 is the public hearing on the supplemental appropriation to the FY '06 Operating
28 Budget of the Circuit Court for the Adjudication Program in the amount of \$143,890.
29 There is one witness, we're going to vote at the end of the hearing. Eileen McGuckian,
30 representing Peerless Rockville does not appear to be here -- here she is. Hey, Eileen.
31 There she is.

32
33 Eileen McGuckian,
34 [INAUDIBLE] talk on the last one but since you were unanimously in favor, I think
35 [INAUDIBLE].

36
37 Council President Leventhal,
38 You're listed as a witness on the Circuit Court. Are you not...

39
40 Eileen McGuckian,
41 I wasn't sure where the 142.5 for the Red Brick Courthouse repairs and maintenance
42 fell.

43
44 Council President Leventhal,

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1 Unfortunately, if you're going to speak, Eileen, you have to come up and use the
2 microphone.

3
4 Eileen McGuckian,
5 [INAUDIBLE]

6
7 Council President Leventhal,
8 We're going to appropriate the money here, I think in a couple minutes.

9
10 Eileen McGuckian,
11 Ah, you gave it away!

12
13 Council President Leventhal,
14 Okay, very good. We don't actually pay by the word. I have to keep reminding myself
15 and my colleagues of that, we don't get paid by the word. The Public Safety Committee
16 recommended in favor of this, Chairman...

17
18 Councilmember Andrews,
19 We did, we did. This is to cover the cost of the new judge in the Red Brick Courthouse,
20 \$79,000 for staff associated with the new judge and \$79,000 for the operating expenses
21 for the remainder of this year.

22
23 Linda McMillan,
24 Can I clarify the committee's recommendation is for \$158,890 because it included
25 \$15,000 that the court had also expended for painting and minor repairs.

26
27 Councilmember Andrews,
28 That's right.

29
30 Council President Leventhal,
31 And so the recommendation before the Committee is for \$158,890, not as stated on the
32 agenda. Those in favor of \$158,890 for Courthouse Adjudication Program will signify by
33 raising their hands. It is unanimous among those present. Agenda Item 27 is a public
34 hearing on the special appropriation to the FY '06 Operating Budget of the State's
35 Attorney's Office for the Juvenile Prosecution Division in the amount of \$27,160. Action
36 is scheduled following the hearing. There are no speakers for this hearing. The special
37 appropriation is now before the Council. it is recommended by the Public Safety
38 Committee. Chairman Andrews?

39
40 Councilmember Andrews,
41 Very straightforward, the Committee recommends a new Assistant State's Attorney and
42 legal assistant are needed now. Recommends approval of \$27,160 for this year's costs.

43
44 Council President Leventhal,

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Those in favor of the Public Safety Committee's recommendation on this matter will signify by raising their hands. It is approved unanimously among those present. Agenda item 28 is a public hearing on a supplemental appropriation to the FY '06 Operating Budget of the Department of Correction and Rehabilitation, For Detention Services, the MCCF Program in the amount of \$1,751,910. There are no witnesses for this hearing, the Public Safety Committee has recommended approval. Chairman Andrews.

Councilmember Andrews,

Thank you Mr. President, this is a supplemental to cover costs of providing security at the jail, at the correctional facility in Clarksburg. It is based on simply the number of posts that are required and this reflects what has been spent this year and will be spent during the remainder of the year to provide this protection. The source of funds is general funds and we are aiming in the budget that we'll propose this year -- recommend this year to the Council -- to have the correct number of posts fully identified and funded so that we theoretically will not need to see supplemental appropriations, certainly like this or of this magnitude in the future because the posts will be funded at the appropriate number of positions, that accounts for whatever relief factor is necessary so we have sufficient funds at the beginning of the year. The Committee recommends approval, 3-0.

Council President Leventhal,

Excellent, the Committee's recommendation is now before the Council for this supplemental appropriation for the Department of Corrections. Oh, Ms. Praisner has a question.

Councilmember Praisner,

I had two comments, one, I think it's important for us to get a handle on overtime across all departments where it is an issue, most of which are in Public Safety, but not exclusively in Public Safety. And I think we have to look at issue of the policy of just automatically doing supplementals for these costs at the end of the year, because neither approach allows for the kind of review of the budget, whether it's staffing or productivity or efficiency of organization. Something similar to what a base budget review would allow us to do. The other point I would make is staff notes in the packet on page 2 that all of the funds are being appropriated to one facility rather than where they're being used. I think this also, from a programmatic perspective, if you were looking at this as a program budget, you would assign the hours to the appropriate facility such that you could also keep track of the costs for that facility rather than the costs in general. And the costs for specific programs, so I hope that we can overcome those issues in the future as well.

Linda McMillan,

Public Safety actually in their work session yesterday we had a discussion about making sure that the personnel complimented and budget reflected that in '07 between the facilities.

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1 Councilmember Andrews,
2 One other comment. I definitely think over the last two or three years, the Committee
3 and the Council has been working to find out what is the accurate number for overtime
4 in the Public Safety Departments. And we believe that with the current budget proposed
5 by the County Executive, we are actually about right there, very close to what it needs
6 to be to have reasonable amount of appropriate overtime so that it's addressing the
7 appropriate use of overtime, which is not structural overtime, but temporary ad-hoc
8 emergency-related overtime. We want to eliminate the need to use overtime to fill what
9 are permanent positions. I think we are about there, we've been phasing that in,
10 because the increases that were needed were substantial in Public Safety particularly.
11 So that I think we're very close to achieving that. We hope to be able to use the figures
12 that have been proposed this year as a way to hold the managers in the departments
13 accountable for sticking to those numbers. And there is an intense effort going on in the
14 departments, particularly in the police department, to allocate specific amounts to
15 managers and hold them accountable for staying within that amount.

16
17 Council President Leventhal,
18 Okay, those in favor of the Public Safety Committee's recommendation of \$1,751,910
19 for this program at the Department of Corrections will signify by raising their hands. That
20 is unanimous among those present. Agenda Item 29, a public hearing on a
21 supplemental appropriations to the FY '06 Operating Budget of the Department of Public
22 Works and Transportation for emergency tree maintenance in the amount of \$1 million.
23 There are no witnesses for this hearing. The T&E Committee has recommend approval.
24 Chairwoman Floreen.

25
26 Councilmember Floreen,
27 Thank you, Mr. President. As is evident from the memo here, the proposal is for \$1
28 million to be spent right now on a backlog of emergency tree maintenance and existing
29 work orders by about a half. That translates into about 1,700, 1,800 back work orders.
30 So this will get us ahead of the game -- well, move us forward in the game of dealing
31 with emergency tree pruning, emergency tree removals, and emergency stump
32 removals. You may recall that we heard from some community members last night
33 about this. I was wondering where this was, this was part of the answer and part of this
34 Council's commitment to dealing with the infrastructure that's been ignored for way too
35 long.

36
37 Council President Leventhal,
38 Ms. Praisner.

39
40 Councilmember Praisner,
41 I just want to comment that the point I made last night -- or the point that I think we need
42 to continue to look at with the infrastructure task force and the individual committees
43 when we go through the budget -- is not just where we're trying to catch up with the
44 backlog, but what is the ongoing projected funding such that we work toward getting to
45 the level of financial support each year that we need. So there's a one-time infusion to

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1 reduce the backlog and -- or several one-time infusions to reduce the backlogs but then
2 there's the needed funding commitment that the level of funding in order to make sure
3 we don't create another backlog.

4
5 Glenn Orlin,

6 That's something that was actually talked about in T&E, because the Executive has
7 recommendations for '07 as well, which address this, and that was one of the
8 challenges, what do we do beyond '07?

9
10 Councilmember Praisner,

11 Okay.

12
13 Council President Leventhal,

14 Okay, those in favor of the T&E Committee's recommendation of \$1 million for tree
15 maintenance will signify by raising their hands. It is unanimous among those present. At
16 this time the T&E Committee -- the Council stands in recess until the hour of 7:00
17 tonight. We'll take a 3-minute recess before the T&E Committee starts so that members
18 can review the historical materials regarding Higgins Tavern. And we have an Education
19 Committee meeting that's supposed to begin in about 3 minutes, if that's the Chairman's
20 pleasure. I'm not sure whether he's back yet. So, if that's all right with you, Madame
21 Chair, the T&E Committee will commence in 3 minutes,